3760.

SUPREME COURT OF THE UNITED STATES.

No. 199.

CHRISTIAN A. ZABRISKIE, COMPLAINANT AND APPELLANT,

VS.

THE CLEVELAND, COLUMBUS, AND CINCINNATI R. R. CO., JOHN A. BUTLER, THOMAS BELKNAP, AND W. H. D. CALLENDER, DEFENDANTS AND APPELLEES.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE NORTHERN DISTRICT OF OHIO.

INDEX.

	Original.	Print.
Citation	1	1
Bill	3	2
Allowance of injunction	10	6
Injunction bond	10	6
Writ of injunction	11	7
" subpœna	13	8
Order allowing amended bill to be filed	14	9
Amended bill	14	9
Exhibit A	28	19
" B	29	20
" C	35	24
Answer of C., C., and C. R. R. Co	37	26
Replication	50	34
Agreed statement of facts	50	35
Petition of John A. Butler et al., for leave to become parties	52	36
Order allowing John A. Butler et al. to become parties and file answer	53	37
Answer of John A. Butler et al	53	37
Exhibit A A	64	44
Replication	72	50
Order for hearing at Cincinnati	73	51
Agreed statement of facts	73	51
Copies from the directors' journals	74	52
" " stockholders' journals	95	67

	Original.	Print.
Complainants' depositions	109	77
Moses G. Mitchell	110	78
Solomon Brecount	119	84
J. R. Hilliard	124	87
R. Walkup	127	90
David Alexander	130	92
Francis H. Ruggles	133	94
Edward B. Wesley	144	102
Edward Pierrepont	149	105
Mathew J. Williamson	152	108
George Jones	155	109
Francis H. Ruggles and exhibits	161	114
John Brough	167	118
Defendant's depositions	177	125
Christopher S. Toppan	180	127
Mathew Vassar	182	128
James Hooker	184	129
Morgan Carpenter	186	131
William D. Thompson	188	132
Samuel J. Beals and exhibits	190	134
Herman Mercuse	192	134
A. Stone, jr	196	138
Henry B. Payne	201	141
R. Walkup and exhibits	235	166
Plat	237	168
Final decree	254	181
Appeal bond	258	182
Clerk's certificate	259	182

396/

THE UNITED STATES OF AMERICA,
Northern district of Ohio, ss:

By the honorable Hiram V. Willson, one of the judges of the circuit court of the United States for the northern district of Ohio in the seventh circuit.

To the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender.

Whereas, Christian A. Zabriskie has lately appealed to the Supreme Court of the United States, from a decree rendered in the circuit court of the United States in the seventh circuit and northern district of Ohio, on the 24th day of March, A. D. 1858, in favor of you, the said Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknapp, and W. H. D. Callender, and against the said Christian A. Zabriskie, and has filed the security required by law:

You are therefore hereby cited to appear before said Supreme Court of the United States, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the city of Cleveland, in the northern district of Ohio, in the seventh circuit, the 25th day of March, A. D. 1858, and of the independence of the United States of America the eighty-second.

H. V. WILLSON, *U. S. Judge.*

We do hereby acknowledge service of the within citation.

RANNEY, BACKUS, & NOBLE,
Solicitors for said C. C. and C. R. R. Company.

Cleveland, March 27, 1858.

EWING & STANBERRY,
Sol'rs for Butler, Belknap, and Callender.

April 1, 1858.

[Endorsed:] 201. Christian A. Zabriskie vs. the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender. Citation. Filed March 27, 1858. F. W. Green, clerk.

UNITED STATES OF AMERICA,
Northern District of Ohio.

At a special and adjourned term of the circuit court of the United States for the northern district of Ohio, held pursuant to the rules of said court, and also pursuant to adjournment of said court from the November term, A. D. 1857, at the city of Cleve-

land in said district, on the second Tuesday of February, being the ninth day of that month, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States of America the eighty-second—

Present, the honorable Hiram V. Willson, district judge, and one of the judges of said court—

Among the proceedings then and there had were the following, to wit:

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO. and others. } No. 201. In chancery.

Be it remembered, that heretofore, to wit, on the thirty-first day of March, in the year of our Lord one thousand eight hundred and fifty-six, came the said complainant, by his solicitors, and filed in the clerk's office of said court his bill of complaint herein, in the words and figures following, to wit:

"To the honorable the judges of the circuit court of the United States for the northern district of Ohio:—Christian A. Zabriskie, of the city of New York, and a citizen of the State of New York, brings this his bill, against the Cleveland, Columbus, and Cincinnati Railroad Company, a corporation created by the laws of the State of Ohio, and having its principal office and place of business in the city of Cleveland, in said last-named State. And thereupon your orator complains and says, that the said Cleveland, Columbus, and Cincinnati Railroad Company are an incorporated company, created by an act entitled 'An act to incorporate the Cleveland, Columbus, and Cincinnati Railroad Company,' passed by the General Assembly of the State of Ohio, March 14th, A. D. 1836; an act entitled 'An act to revive the act entitled "An act to incorporate the Cleveland, Columbus, and Cincinnati Railroad Company,"' passed by the General Assembly of said State, March 12th, A. D. 1845; an act entitled 'An act to authorize the Cleveland, Columbus, and Cincinnati Railroad Company to construct side branches,' passed by the General Assembly of said State, February 8th, A. D. 1847, and an act entitled 'An act to amend an act incorporating the Cleveland, Columbus, and Cincinnati Railroad Company, and for other purposes,' passed by the General Assembly of said State, February 8th, A. D. 1848, for the purpose of constructing a railroad from the city of Cleveland to the city of Columbus, in said State; and that by virtue of said acts, and the sixth, ninth, tenth, eleventh, thirteenth, fourteenth, sixteenth, and twenty-second sections of the act entitled 'An act regulating railroad companies,' passed by the General Assembly of said State, February 11th, A. D. 1848, and adopted and accepted as a part of the charter of the Cleveland, Columbus, and Cincinnati Railroad Company, by

the stockholders thereof, on the twentieth day of May, A. D. 1848, the said company constructed a railroad from a point within the city of Cleveland, southwestwardly through the counties of Cuyahoga, Lorain, Huron, Richland, Crawford, Morrow, Delaware, and Franklin, to a point within the city of Columbus, in said last-named county, there to unite with the Columbus, and Xenia Railroad, and, together with said road and the Little Miami Railroad, form a connected and continuous line of railroad from the city of Cleveland aforesaid to the city of Cincinnati; and opened said first-mentioned road from Cleveland to Columbus for the transportation of passengers and freight, in or about the month of February, A. D. 1851.

Your orator further says, that long anterior to the first day of January, A. D. 1856, he was the owner of five hundred and twenty-three shares of the capitol stock of the Cleveland, Columbus, and Cincinnati Railroad Company, each share being of the denomination of one hundred dollars, and amounting in the aggregate to the sum of fifty-two thousand three hundred dollars, which he has ever since and still continues to own, and that he purchased, took, and received said capital stock, subject only to the burden of maintaining said road and its equipment, and the expenses of running the same, while all the earnings of said road, beyond what might be necessary for the purposes aforesaid, were liable to be, and by law ought to be, distributed ratably amongst the shareholders of said company, and that neither said company nor the directors thereof in behalf of said company, had any right to enter into or to pledge the credit moneys, property, or earnings of said company to any purpose, or to the support of any project not authorized by the aforesaid acts of incorporation and not within the scope of their authority.

Your orator further says, that on or about the first day of April, A. D. 1854, the Columbus, Piqua, and Indiana Railroad Company, an incorporated company, created by the laws of said State of Ohio, and thereby authorized to construct a railroad from Union, in the county of Darke, a point on the west line of said State, to the city of Columbus aforesaid, there to unite with the Steubenville and Indiana Railroad and with the Ohio Central Railroad, and with said roads form connected and continuous lines of railroad from the west to the east lines of said State, and were then engaged in efforts to build said road from Union aforesaid southeastwardly through the counties of Darke, Miami, Champaign, Madison, and Franklin, to the city of Columbus aforesaid, issued their bonds to the number of six hundred of the denomination of one thousand dollars each, amounting in the aggregate to the sum of six hundred thousand dollars, dated on or about the first day of April, A. D. 1854, convertible into the capital stock of said Columbus, Piqua, and Indiana Railroad Company, and secured by a third mortgage upon said road, payable to the holders thereof in fifteen years after their date, at

the banking house of the Ohio Life Insurance and Trust Company, in the city of New York, with interest at the rate of seven per cent. per annum, payable semi-annually at the same place, on the first day of April and October, until said principal sum should be paid, for the purpose, by the sale of said bonds, of defraying the indebtedness of said company, and of furnishing means of constructing said road, and delivered said bonds to William Neil and William Dennison, jr., of the city of Columbus, who had become the owners of said bonds under some contract unknown to your orator; and that after said issue and delivery of said bonds, and after the said Neil and Dennison had become the owners thereof, the said Cleveland, Columbus, and Cincinnati Railroad Company, by their president, acting by and with the advice and consent of the board of directors of said company, conjointly with the Bellefontaine and Indiana Railroad Company, and the Indianapolis, Cleveland, Pittsburg Railroad Company, by their written endorsement upon the back of four hundred of said bonds, of the denomination aforesaid, guaranteed the payment of the interest and principal to become due on said four hundred bonds.

Your orator further says, that after said four hundred bonds were endorsed and guaranteed as hereinbefore stated, the said William Neil and William Dennison, jr., sold and delivered the same to various individuals, whose names and places of residence are wholly unknown to your orator.

Your orator further says, that a semi-annual instalment of interest became due and payable on said four hundred bonds at the banking-house aforesaid, on the first day of October, A. D. 1855, amounting to the sum of fourteen thousand dollars, which the said Columbus, Piqua, and Indiana Railroad Company were wholly unable to pay; and thereupon, the same was paid in equal proportions by the said Cleveland, Columbus, and Cincinnati Railroad Company, the Bellefontaine and Indiana Railroad Company, and the Indianapolis, Cleveland, and Pittsburgh Railroad Company, together with the expense of transmitting the same to the city of New York; and that another semi-annual instalment of interest, of like amount, will become due and payable on said four hundred bonds, on the first day of April next, which the said Columbus, Piqua, and Indiana Railroad Company are wholly unable to pay, as well as all instalments of interest which may thereafter become due on said bonds, but which your orator is apprehensive the said Cleveland, Columbus, and Cincinnati Railroad Company intend to pay conjointly with the said Bellefontaine and Indiana Railroad Company, and the Indianapolis, Cleveland, and Pittsburgh Railroad Company, unless they shall be restrained and enjoined therefrom by this court.

Your orator further says, that the Columbus, Piqua, and Indiana Railroad was, at the time of said endorsement and guarantee, and still is, wholly unfinished; and though terminating at the city of

Columbus aforesaid, as a common point, is not connected with the Cleveland, Columbus, and Cincinnati Railroad, nor will the said road, when completed, if the same shall ever be completed, form a connected and continuous line with it, but, on the contrary thereof, the said Columbus, Piqua, and Indiana Railroad, with its proposed connections as hereinbefore stated, will become a competing and rival road with the Cleveland, Columbus, and Cincinnati Railroad, and will largely divert the business now done on said last-named road therefrom to the said Steubenville and Indiana Railroad and the Ohio Central Railroad.

Your orator further says, that neither the Cleveland, Columbus, and Cincinnati Railroad Company, nor the president and directors thereof, had any right or authority whatever to endorse and guarantee said four hundred bonds, nor any right or authority whatever to pay any portion of said semi-annual instalment of interest as aforesaid, nor any such instalment hereafter to become due, but said acts of said company, and of the president and directors thereof, were and are contrary to said acts of incorporation, and are wholly void; that said endorsement, guarantee, and payment, were made without the knowledge and consent of your orator, then, as now, a large stockholder in said Cleveland, Columbus, and Cincinnati Railroad Company, and that the aforesaid acts of said company, and the president and directors thereof, have greatly and permanently depreciated the value of the aforesaid capital stock of your orator, and deprived your orator of his ratable share of the moneys so paid as aforesaid, to which your orator was, and still is, entitled as dividends.

Your orator therefore prays that the writ of subpœna may issue against the said Cleveland, Columbus, and Cincinnati Railroad Company, and for such notice of the pendency of this suit to the unknown owners of said bonds as to your honors shall seem fit, and that they may be made parties defendants hereto, and be required to answer the several matters and things hereinbefore contained and charged; that on the final hearing of this cause, this court shall declare said endorsement and guarantee of said four hundred bonds to be illegal and void, and shall make an order forever restraining and enjoining said Cleveland, Columbus, and Cincinnati Railroad Company from paying any money or other thing whatever in satisfaction and discharge of the interest and principal hereafter to become due on said four hundred bonds, or any part thereof; and also that your orator may have such other and further relief in the premises as to your honors shall seem meet; and also that a writ of injunction may issue against the said Cleveland, Columbus, and Cincinnati Railroad Company, restraining and enjoining said company from paying any money or other thing whatever in satisfaction and discharge of the interest, or any part thereof, to become due on said four hundred bonds, on the

first day of April next, or any time thereafter, during the pendency of this suit.

OTIS, SEARS & WYMAN,
Sol'rs for Complainant."

THE UNITED STATES OF AMERICA,
Northern District of Ohio, ss:

Before the subscriber, clerk of the circuit court of the United States for the northern district of Ohio, personally appeared William S. C. Otis, who being duly sworn, on oath, deposes and says, that he is one of the solicitors of the complainant in the foregoing bill; that said complainant is a resident of the city of New York, and is without the State of Ohio, and that all and singular the allegations in the foregoing bill are true.

W. S. C. OTIS.

Sworn to and subscribed before me, this 31st day of March, A. D. 1856.

F. W. GREEN,
Cl'k Cir. C't U. S., N. Dis't of Ohio.

And thereupon, on the filing of said bill, the said court made and entered on its minutes an order allowing the injunction prayed for in said bill, which order of allowance is in the words and figures following, to wit:

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO. } No. 201. In Chancery.

The complainant appeared, by Otis, Sears & Wyman, his solicitors, and the defendant, by the president of said company, and on motion to the court, by said solicitors, it is ordered that an injunction be allowed herein, as prayed for in said bill, and that the clerk issue the writ of injunction herein allowed, on bond and security to the defendant being given, in the sum of five thousand dollars, conditioned that the complainant shall abide the decision of said court, and pay all moneys and costs that may be decreed against him, in case said injunction shall be dissolved; and thereupon, the complainant tendered a bond executed by Wm. S. C. Otis, which is approved by the court.

And which said injunction bond is in the words and figures following, to wit:

"Know all men by these presents, that I, W. S. C. Otis, am held and firmly bound unto the president, directors, and company of the Cleveland, Columbus, and Cincinnati Railroad Company, in the sum of five thousand dollars, to the payment of which I hereby

bind myself, my heirs, executors, and administrators. Sealed with my seal, and dated this 31st day of March, A. D. 1856.

The condition of the above obligation is such, that whereas Christian A. Zabriskie has obtained an allowance of an injunction in the circuit court of the United States for the northern district of Ohio, to restrain and enjoin the said Cleveland, Columbus, and Cincinnati Railroad Company from paying any money, or other thing whatever, in satisfaction and discharge of the interest, or any part thereof, to become due on four hundred bonds issued by the Columbus, Piqua, and Indiana Railroad Company, of the denomination of one thousand dollars each, dated on or about the first day of April, 1854, and payable fifteen years from their date, at the banking-house of the Ohio Life Insurance and Trust Company, in the city of New York, endorsed and guarantied by said Cleveland, Columbus, and Cincinnati Railroad Company, conjointly with the Bellefontaine and Indiana Railroad Company, and the Indianapolis, Cleveland, and Pittsburgh Railroad Company: Now, if the said Christian A. Zabriskie shall abide the decision of said court, and pay all moneys and costs which shall be decreed against him in case the said injunction shall be dissolved, then these presents shall be void, otherwise to remain in full force and effect.

W. S. C. OTIS, [SEAL.]

Witness, F. W. GREEN."

And thereupon, to wit, on the thirty-first day of March, in the year of our Lord one thousand eight hundred and fifty-six, there was issued from the clerk's office of said court a writ of injunction in this cause, in the words and figures following, to wit:

"THE UNITED STATES OF AMERICA,
Northern District of Ohio, ss:

The President of the United States of America to the Cleveland, Columbus, and Cincinnati Railroad Company, its officers and agents, and to each and every of you, greeting:

Whereas, Christian A. Zabriskie, a citizen of the State of New York, has filed on the chancery side of the circuit court of the United States for the northern district of Ohio, a bill against you, the said Cleveland Columbus, and Cincinnati Railroad Company, amongst other things, praying for an injunction to restrain you, the said Cleveland, Columbus, and Cincinnati Railroad Company, from paying the interest, or any part thereof, to become due on the 1st day of April next, or any time thereafter, on four hundred bonds of the Columbus, Piqua, and Indiana Railroad Company, of the denomination of one thousand dollars each, dated on or about the first day of April, 1854, and which said bonds, you, the said Cleveland, Columbus, and Cincinnati Railroad Company, by written endorsement thereon, conjointly with the Bellefontaine and Indiana

Railroad Company, and the Indianapolis, Cleveland, and Pittsburg Railroad Company, guarantied the payment of the interest and principal to become due thereon:

We having regard for the matters aforesaid, do hereby command and strictly enjoin you, the said Cleveland, Columbus, and Cincinnati Railroad Company, your officers and agents, and each and every of you, from paying any money or other thing whatsoever, in satisfaction and discharge of the interest, or any part thereof, to become due on said four hundred bonds, on the first day of April next, or any time thereafter, during the pendency of the said suit.

Which command and injunction you are required to observe and obey until our circuit court shall make further order in the premises.

Hereof fail not, under the full penalty of the law thence ensuing.

Witness the honorable Roger B. Taney, Chief Justice of the United States, this thirty-first day of March, A. D. 1856, [SEAL.] and in the eightieth year of the independence of the United States of America.

F. W. GREEN, *Clerk.*"

And on the first day of April, A. D. 1856, the said writ of injunction was returned into said clerk's office, endorsed as follows, to wit: "Served this injunction upon the Cleveland, Columbus, and Cincinnati Railroad Company, by personally delivering to L. M. Hubby, president of said company, a true copy thereof, at the office of said company.

J. W. FITCH,
U. S. Marshal, N. D. Ohio."

And on the said thirty-first day of March, A. D. 1856, there was issued from the clerk's office of said court a writ of subpœna in this case against said defendant, in the words and figures following, to wit:

"NORTHERN DISTRICT OF OHIO, *ss:*

The President of the United States of America to the marshal of said district, greeting:

We command you to summon the Cleveland, Columbus, and Cincinnati Railroad Company, citizen of and resident in the State of Ohio, if it be found in your bailiwick, to be and appear before the judges of the circuit court of the United States for the northern district of Ohio aforesaid, at Cleveland, on the first Monday in the month of May next, to answer a certain bill in chancery, filed in said court against it by Christian A. Zabriskie, citizen of and resident in the State of New York. Hereof fail not, under the penalty of the law thence ensuing, and have you then and there this writ.

Witness the honorable Roger B. Taney, Chief Justice of the United States, this 31st day of March, 1856, and in the eightieth year of the independence of the United States of America.
[SEAL.] F. W. GREEN, *Clerk.*"

Memorandum.—The defendant is required to enter its appearance in this suit, in the clerk's office, on or before the day in which this writ is returnable, otherwise the bill may be taken pro confesso.
F. W. GREEN, *Clerk.*

And afterwards, to wit, on the first day of April, A. D. 1856, the said writ of subpœna was returned into said clerk's office, by said marshal, with his return endorsed thereon, as follows, to wit: "Served this writ upon the within-named Cleveland, Columbus, and Cincinnati Railroad Company, by personally delivering to L. M. Hubby, president of said company, a true copy thereof, at the office of said company.

J. W. FITCH,
U. S. Marshal, N. D. Ohio.
By JA'S LAURENCE, *Dep't.*

March 31st, 1856."

And afterwards, to wit, at the May special and adjourned term of said court, in the year of our Lord one thousand eight hundred and fifty-six, this cause was continued.

And afterwards, to wit, on the eighth day of July, in the year of our Lord one thousand eight hundred and fifty-six, being at the July stated term of said court, in said year, the following entry was made on the journal of said court, to wit:

CHRISTIAN A. ZABRISKIE vs. CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO.	No. 201. In Chancery.

On motion, leave is given the complainant to file an amended bill in this case, instanter. And thereupon this cause was continued.

And afterwards, to wit, on the thirteenth day of September, A. D. 1856, the said complainant, by his solicitors, filed in said court his amended bill, and which is in the words and figures following, to wit:

To the honorable the judges of the circuit court of the United States for the northern district of Ohio:

Christian A Zabriskie, of the city of New York, and a citizen of the State of New York, brings this his bill against the Cleveland, Columbus, and Cincinnati Railroad Company, a corporation created by the laws of the State of Ohio, and having its principal office and

place of business in the city of Cleveland, in said last-named State; and thereupon your orator complains and says, that the said Cleveland, Columbus, and Cincinnati Railroad Company are an incorporated company created by an act entitled "An act to incorporate the Cleveland, Columbus, and Cincinnati Railroad Company," passed by the General Assembly of the State of Ohio, March 14th, 1836; an act entitled "An act to revive the act entitled an act to incorporate the Cleveland, Columbus, and Cincinnati Railroad Company," passed by the General Assembly, of said State, March 12th, 1845; an act entitled "An act to authorize the Cleveland, Columbus, and Cincinnati Railroad Company to construct side branches," passed by the General Assembly, of said State, February 8th, 1847, and an act entitled "An act to amend an act incorporating the Cleveland, Columbus, and Cincinnati Railroad Company, and for other purposes," passed by the General Assembly of said State, February 8th, 1848, for the purpose of constructing a railroad from the city of Cleveland to the city of Columbus, in said State; and that, by virtue of said acts, and the sixth, ninth, tenth, eleventh, thirteenth, fourteenth, sixteenth, and twenty-second sections of the act entitled "An act regulating railroad companies," passed by the General Assembly of said State, Feb'y 11th, 1848, and adopted and accepted as a part of the charter of the Cleveland, Columbus, and Cincinnati Railroad Company, by the stockholders thereof, at a meeting duly called and convened on the twentieth day of May, A. D. 1848, the said company constructed a railroad from a point within the city of Cleveland, southwestwardly, through the counties of Cuyahoga, Lorain, Huron, Richland, Crawford, Morrow, Delaware, and Franklin, to a point within the city of Columbus, in said last-named county, there to unite with the Columbus and Xenia Railroad, and, together with said road and the Little Miami Railroad, form a connected and continuous line of railroad from the city of Cleveland aforesaid to the city of Cincinnati; and opened said first-mentioned road from Cleveland to Columbus, for the transportation of passengers and freight, in or about the month of February, A. D. 1851.

Your orator further says, that long anterior to the first day of March, A. D. 1854, he was the owner of five hundred and fifty-two shares of the capital stock of the Cleveland, Columbus, and Cincinnati Railroad Company, each share being of the denomination of one hundred dollars, and amounting in the aggregate to the sum of fifty-five thousand two hundred dollars, which he has ever since and still continues to own; and that he purchased, took, and received said capital stock, subject only to the burden of maintaining said road and its equipments, and the necessary current and probable contingent expenses of operating and running the same, while all the earnings of said road, beyond what might be necessary for the purposes aforesaid, were liable to be, and by law were to be, divided by the directors of said company, semi-annually, amongst the stock-

holders thereof, in proportion to their respective shares therein; and that neither said company nor the directors thereof had any right to enter into or to pledge the credit, moneys, property, or earnings of said company, to any purpose, or to the support of any project not expressly authorized by the aforesaid acts of incorporation, or indespensably necessary to carry into effect the powers therein specifically granted.

Your orator further says, that on the 23d day of February, 1849, the General Assembly of the State of Ohio passed an act entitled "An act to incorporate the Columbus, Piqua, and Indiana Railroad Company," wherein and whereby the corporators therein named, their successors, associates, and assigns, were created a body corporate and politic, and were vested with and were entitled to have and enjoy all the rights, privileges, powers, and franchises, and be subject to all the restrictions of the act entitled "An act regulating railroad companies," passed by said General Assembly, February 11th, 1848, except so far as the same might be modified by the provisions of said act of incorporation, and were empowered to construct a railroad, commencing at or near Columbus, in Franklin county, or on some point on the Columbus and Xenia Railroad; thence to Urbana, in Champaign county; thence to Piqua, in Miami county; thence to Greenville, in Darke county; and thence on such route as the directors of said company, or a majority of them, might select, to the west line of the State of Ohio; that said company were organized in or about the month of February, A. D. 1850, and adopted a line of road extending from Columbus, through Urbana and Piqua aforesaid, to the town of Union, on the dividing line between the States of Ohio and Indiana.

Your orator further says, that said company with the Indianapolis and Bellefontaine Railroad Company, which were empowered by the General Assembly of the State of Indiana to construct a railroad from Indianapolis, in the State of Indiana, to Union aforesaid, adopted a guage of four feet eight and a half inches, and the said companies entered into some arrangement, as your orator is informed, by which their said roads should be run in common.

Your orator further says, that said Columbus, Piqua, and Indiana Railroad Company opened their road from Columbus to Urbana, a distance of forty-six miles, with said guage of four feet eight and a half inches, in or about the month of September, 1853; but in the month of October following, said company, having exhausted all their available resources, suspended all labor towards the further opening of their road until some time in the month of May, 1854.

Your orator further says, that soon after said company opened their road as aforesaid, from Columbus to Urbana, and commenced operating the same between said points, it was ascertained by them that the guage which they had adopted as aforesaid, being different

from the guage of all other connecting railroads in Ohio, materially interferred with the convenient and profitable transportation of passengers and property over said road, and that the true interest of that company required a change of guage from four feet eight and a half inches to four feet ten inches.

Your orator further says, that said Indianapolis and Bellefontaine Railroad Company, then having completed their said road and having no certain outlet or connexion for the passengers and freight transported over the same, except the Bellfontaine and Indiana Railroad, which extended from Union aforesaid to Galion, a point on the Cleveland, Columbus, and Cincinnati Railroad, one hundred and eighteen miles distant northeasterly therefrom, in or about the month of August, 1853, commenced changing the guage of their road from four feet eight and a half inches, as originally laid, to four feet ten inches, so as to correspond with the guage of the said Bellfontaine and Indiana and the Cleveland, Columbus, and Cincinnati Railroads, and make the same uniform between Indianapolis and Cleveland, and had perfected the same to Muncie, a distance of thirty miles, when said Indianapolis and Bellfontaine Railroad Company were arrested in said work, by an injunction issued by the circuit court of the United States for the district of Indiana, at the suit of the Columbus, Piqua, and Indiana Railroad Company, upon the agreement aforesaid, until the question raised and by said suit should be determined upon the final hearing of the case.

Your orator further represents, that on the 17th day of January, A. D. 1854, the directors of said Columbus, Piqua, and Indiana Railroad Company, having substantially exhausted the subscriptions to the capital stock of said company, and a first and second issue of bonds made by said company and secured by mortgages upon said road, amounting in the aggregate to a million of dollars, and being without means or credit to open said road beyound Urbana aforesaid, or further to prosecute the work on the same, appointed, by resolution in writing, a committee from their own body, consisting of three members, denominated a committee of "ways, means, and connexions," to negotiate for such an amount of money or available securities as might be required in the judgment of said committee to complete their said road, and to discharge all the liabilities of said company other than those created by their bonds; and to that end, said board of directors authorized said committee so to change the aforesaid arrangement made between said company and the Indianapolis and Bellfontaine Railroad Company, as to permit the latter company to change the guage of their road at pleasure; and also to make an issue of third mortgage bonds of said Columbus, Piqua, and Indiana Railroad Company, to an amount not exceeding six hundred thousand dollars, as in and by said resolution of said board of directors, a copy of which, marked "A," and hereto attached and made a part of this

bill, will more fully and at large appear. And your orator says, that said resolution was proposed by one William Dennison, jr., with a view to the purchase of the supposed interest of the said Columbus, Piqua, and Indiana Railroad Company, in and control over the guage of the said Indianapolis and Bellfontaine Railroad, and of said bonds, thereafter made by one William Neil and the said Dennison, as hereinafter set-forth.

Your orator further says, that said committee, in the discharge of the duties thus devolved upon them, repaired to the city of Philadelphia, in the latter part of the same month, and opened negotiations with the bondholders of said company, and other persons supposed to be interested in the construction of said road, when the said William Neil and William Dennison, jr., of the city of Columbus aforesaid, the former a large stockholder in said company, and holding the relation of financial agent thereto, the latter a member of the board of directors of said company and the vice president thereof, and also the son-in-law of the said William Neil, commenced a series of negotiations culculated and designed to secure to themselves the sale, by said committee, of the supposed interest of said Columbus, Piqua, and Indiana Railroad Company, in and control over the guage of the Indianapolis and Bellefontaine Railroad, and of the aforesaid injunction suit in relation thereto, and also the said proposed issue of said third mortgaged bonds, in such manner as to accrue largely to their individual profit; and such negotiations were thereafterwards had between the said committee and the said Neil & Dennison, that said committee did sell to the said Neil & Dennison, the said Dennison being at the time of said sale a director and vice president of the company as aforesaid, the supposed interest of said company in and control over the guage of the Indianapolis and Bellfontaine Railroad, and of the injunction suit in relation thereto, and the exclusive power to adjust and settle the same, and also said proposed issue of third mortgage bonds to the amount of six hundred thousand dollars and sixty thousand dollars of the capital stock of the company, at and for the price of three hundred and sixty-five thousand dollars, which contract of sale was subsequently reduced to writing and signed by said committee for and on behalf of said company, and by said Neil & Dennison, on the 25th day of February, A. D. 1854, as in and by said contract, a copy of which, marked "B," and hereto attached and made part of this bill, will more fully and at large appear.

Your orator further says, that at the time of the sale of said supposed interest of the Columbus, Piqua, and Indiana Railroad Company, in and control over the guage of said Indianapolis and Bellfontaine Railroad, and said bonds and stock to the said Neil & Dennison as aforesaid, the value of said stock was well known by the parties to said contract not to exceed fifty cents on the dollar of its nominal amount, and that the excess over that sum, which was agreed to be paid therefor, was in fact deducted from the esti-

mated value of said bonds; and that the sum paid for the supposed interest of said company in and control over the guage of said Indianapolis and Bellfontaine Railroad, and the exclusive power to adjust and settle the same, was the sum of five thousand dollars, which was the estimated cost of changing the guage of the Columbus, Piqua, and Indiana Railroad, between Columbus and Urbana, and adapting the rolling stock and machinery of said company thereto.

Your orator further says, that on the third day of March, 1854, the board of directors of said Columbus, Piqua, and Indiana Railroad Company, ratified and confirmed said contract, so as aforesaid made between said committee, acting for and in behalf of said company, and the said Neil & Dennison; and that subsequent to the ratification and confirmation of said contract, and in pursuance of the stipulations thereof, the president of said company executed and delivered to said Neil & Dennison the bonds of said company to the sum of six hundred of the denomination of one thousand dollars each, amounting in the aggregate to the sum of six hundred thousand dollars, dated on the first day of April, 1854, convertible into the capital stock of said company, and secured by a third mortgage upon said road, payable to Elias Fassett, or the holders thereof, in fifteen years after their date, at the banking house of the Ohio Life Insurance and Trust Company, in the city of New York, with interest at the rate of seven per cent. per annum, payable semi-annually at the same place, on the first day of April and October, until said principal sum should be paid, and also issued and delivered to them certificates of the capital stock of said company in said sum of sixty thousand dollars.

Your orator further says, that after said Columbus, Piqua, and Indiana Railroad Company had sold to the said Neil & Dennison their supposed interest in and control over the guage of said Indianapolis and Bellefontaine Railroad, and said bonds and stock as aforesaid, and they had become the sole and exclusive property of the said Neil & Dennison, they applied to Henry B. Payne, the president of the said Cleveland, Columbus, and Cincinnati Railroad Company, to purchase a portion of said stock, and to endorse and guarantee a portion of said bonds in his capacity of president as aforesaid; and thereupon, the said Henry B. Payne, by and with the advice of the directors of said company, in his capacity as president, and with the intention of binding said company by said act, in connection with the president of the Bellefontaine and Indiana Railroad Company, and the executive committee of the Indianapolis and Bellfontaine Railroad Company, entered into a contract, in writing, with the said Neil & Dennison, in pursuance of a previous understanding between the said parties, on the seventh day of March, 1854, to purchase thirty thousand dollars of said capital stock of said Columbus, Piqua, and Indiana Railroad Company, at par, and to endorse and guarantee the punctual payment

of the principal and interest of four hundred of said bonds, according to the tenor and effect thereof, as in and by said contract, a copy of which, marked "C," and hereto attached and made a part of this bill, will more fully and at large appear; and subsequently the said Henry B. Payne, as president as aforesaid, did purchase and pay for said stock, and did endorse and guarantee the punctual payment of the principal and interest of four hundred of said bonds, in pursuance of said last-mentioned contract, in the following terms, that is to say:

The Cleveland, Columbus, and Cincinnati Railroad Company, for value received, hereby warrant and guarantee the punctual payment of the interest and principal of this obligation.

In testimony whereof, the said company, in pursuance of a resolution of the board, passed 6th day of March, 1854, have caused these presents to be signed by the president, this 7th day of April, 1854.

THE CLEVELAND, COLUMBUS, AND
CINCINNATI RAILROAD COMPANY,
By H. B. PAYNE, *President.*

And your orator says, that said contract was entered into, and said stock was purchased, and said bonds endorsed and guaranteed in pursuance thereof, in fact, for the sole purpose of securing, without further delay, a change of the guage of the Indianapolis and Bellefontaine Railroad, from Muncie to Indianapolis, from four feet eight inches and a half to four feet ten inches.

Your orator further says, that after said four hundred bonds, and endorsed and guaranteed as hereinbefore stated, the said Neil and Dennison, without the knowledge of your orator, sold and delivered the same to various individuals, whose names and places of residence are wholly unknown to our orator. And your orator says, that all of said individuals who purchased and received said bonds, from the said Neil & Dennison or from other persons, well knew that the same were not endorsed and guaranteed by said president of said Cleveland, Columbus, and Cincinnati Railroad Company, as aforesaid, and delivered to the said Elias Fassett, or to the said Neil and Dennison, for any of the purposes specified in their aforesaid acts of incorporation, or necessarily incident thereto, nor in the course of the legitimate business of said company, and that they also knew, or at least were by law presumed to know, that said president and directors of said Cleveland, Columbus, and Cincinnati Railroad Company had no authority to make said endorsement, and that the same was liable to be set aside.

Your orator further says, that in or about the month of May, 1854, the Columbus, Piqua, and Indiana Railroad Company resumed their work upon their said road, and in or about the month of October, 1854, opened the same from Urbana to Piqua, a dis-

tance of twenty-six miles, when they again suspended all work upon the same; that said road is unfinished and unopened between Piqua and Union, a distance of thirty miles; that to open said road from Piqua to Union aforesaid, in a manner suitable to do business, and furnish the necessary equipment, will require the sum of three hundred and fifty thousand dollars at least, and it will also require the additional sum of four hundred and twenty-six thousand dollars to pay the floating debt of said company and its domestic bonds, now presently maturing; that said company have no means whatever of paying said indebtedness, and of opening said road, except a claim estimated to be worth eighty-four thousand dollars, while the earnings of said road are barely sufficient to pay its running expenses, and the holders of the first mortgage bonds of said company have already commenced legal proceedings to subject said road, its equipment, and franchises to sale for the payment of the same already due, because of the continued default of said company in paying the interest accruing thereon.

Your orator further says, that although the Columbus, Piqua, and Indiana Railroad, and the Cleveland, Columbus, and Cincinnati Railroad terminate at Columbus aforesaid, as a common point, the former is not connected with the latter, nor will the former, when completed, if the same shall ever be completed, form a connected and continuous line with it, but on the contrary thereof, the said Columbus, Piqua, and Indiana Railroad, with its proposed connexions with the Indianapolis and Bellefontaine, the Steubenville and Indiana, and the Central Ohio Railroads, will become a competing and rival road with the Cleveland, Columbus, and Cincinnati Railroad, and will divert the business which would otherwise be done on said last-named road thereform to the Steubenville and Indiana, and the Ohio Central Railroad.

Your orator further says, that after said stock had been purchased, and said bonds endorsed and guarantied as aforesaid, the said president and directors of said Cleveland, Columbus, and Cincinnati Railroad Company became apprehensive that said purchase, endorsement, and guarantee were unauthorized and void, and that the same would be repudiated by the stockholders of said company, and they therefore became desirous to obtain from the stockholders some kind of recognition and ratification of their aforesaid action in the purchase of said stock, and the endorsement and guaranty of said bonds, as well to relieve themselves from the charge of unauthorized action in the premises as from all individual liability therefor; and for that purpose, the said president and directors called a special meeting of said stockholders, to be held in Cleveland aforesaid, on the first day of July, 1854, in pursuance of the following notice, issued by the secretary of said company, and published by order of said directors in two of the daily papers in Cleveland, in the New York Daily Times, in a paper at Columbus aforesaid, and also in a paper at Delaware, Ohio, that is to say:

"OFFICE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY, CLEVELAND, *June* 17, 1854.

A meeting of the stockholders of this company for the transaction of business will be held at the office of the company, in Cleveland, on the first day of July next, at 10 o'clock a. m.

By order of the board:

M. J. WILLIAMSON,
Secretary."

Your orator further says, that a large majority of the stockholders in said company, and who also held a large majority of the capital stock thereof, resided without the State of Ohio, in various parts of these United States and in Europe; that no other notice of said proposed meeting, or of its objects, was given to said stockholders; that said notice was wholly insufficient in law, both in regard to its character, and the mode of its publication, and did not, in fact, come to the knowledge of a majority of said stockholders; and that when said meeting of stockholders was convened, in pursuance of said notice, no information was laid before them by said directors, either in regard to the aforesaid relation of the said Neil & Dennison, to the Columbus, Piqua, and Indiana Railroad Company at the time they purchased said stock and bonds of said company, and the supposed interest of said company in and control over the guage of the Indianapolis and Bellefontaine Railroad as aforesaid, nor in regard to the ownership of said stock and bonds and supposed interest in and control over the guage of said road by the said Neil and Dennison at the time when the aforesaid contract to purchase said stock, and to endorse and guarantee said bonds was entered into, nor when said stock was purchased, and said bonds were endorsed and guarantied in pursuance thereof as aforesaid; nor in regard to the insolvent condition of said Columbus, Piqua, and Indiana Railroad Company; and also, that less than one-fifth of the capital stock of said Cleveland, Columbus, and Cincinnati Railroad Company, then amounting to more than four millions two hundred thousand dollars, was represented in the vote, upon the approval and ratification of said purchase of stock, and of said endorsement and guaranty of said bonds.

Your orator further says, that a semi-annual instalment of interest became due and payable on said four hundred bonds, at the banking-house of the said Ohio Life Insurance and Trust Company, in the city of New York, on the first day of October, 1855, amounting to the sum of fourteen thousand dollars, which the said Columbus, Piqua, and Indiana Railroad Company were wholly unable to pay; and thereupon, the same was paid in equal proportions by the said Cleveland, Columbus, and Cincinnati Railroad Company, the Bellefontaine and Indiana Railroad Company, and the Indianapolis and Bellefontaine Railroad Company, together with the ex-

pense of transmitting the same to the city of New York; and that another semi-annual instalment of interest, of like amount, became due and payable on said four hundred bonds, on the first day of April last, which the said Columbus, Piqua, and Indiana Railroad Company were wholly unable to pay, as well as all instalments of interest which may hereafter become due on said bonds, but, which your orator was apprehensive the said Cleveland, Columbus, and Cincinnati Railroad Company intended to pay conjointly with the said Bellefontaine and Indiana Railroad Company, and said Indianapolis and Bellefontaine Railroad Company, unless they were restrained and enjoined therefrom by this court.

Your orator further says, that the said stock and bonds so as aforesaid sold by the Columbus, Piqua, and Indiana Railroad Company, to the said Neil and Dennison, were, and are, wholly null and void; and further, that the president and directors of said Cleveland, Columbus, and Cincinnati Railroad Company had no right or authority whatever to purchase said stock, or to endorse and guarantee said four hundred bonds, nor any right or authority whatever to pay any portion of said semi-annual instalment of interest as aforesaid, nor any such instalment thereafter to become due, nor had the stockholders of said Company, convened at the meeting held on the first day of July as aforesaid, any right or authority to ratify said purchase, endorsement, and guarantee, so as to bind your orator, or any other stockholder in said company, not assenting thereto, but that said acts of said president and directors, and of said stockholders, were, and are, contrary to said acts of incorporation of said Cleveland, Columbus, and Cincinnati Railroad Company, and are wholly void; that said purchase of stock, and said endorsement and guarantee of said four hundred bonds, and said attempted ratification of said acts on the part of said stockholders, and payment of interest, were performed and made without the knowledge and consent of your orator; and that the aforesaid acts of said president, directors, and stockholders, have greatly and permanently depreciated the value of the aforesaid capital stock of your orator, and deprived your orator of his ratable share of the moneys so paid as aforesaid, to which your orator was and still is entitled as dividends.

Your orator therefore prays, that said Cleveland, Columbus, and Cincinnati Railroad Company, with the holders of said endorsed bonds when discovered and made parties defendants hereto, shall be required to answer the several matters and things hereinbefore contained and charged in this amended bill; that on the final hearing of this cause, this court shall declare said purchase of said stock and said endorsement and guarantee of said four hundred bonds to be illegal and void, and shall make an order forever restraining and enjoining said Cleveland, Columbus, and Cincinnati Railroad Company from paying any money or other thing whatever, in satisfaction and discharge of the interest now due, and of the in-

terest and principal hereafter to become due on said four hundred bonds, or any part thereof, and also that your orator may have such other and further relief in the premises as to your honor shall seem meet; and also that the temporary injunction granted herein, shall be continued until the final determination of this suit.

OTIS, SEARS & WYMAN,
Solic'rs for Complainant.

UNITED STATES OF AMERICA,
Northern District of Ohio.

I, William S. C. Otis, being duly sworn, on my said oath, depose say, that I am one of the solicitors of the complainant in the foregoing bill of complaint; and that said complainant is a resident of the city of New York, and is without the State of Ohio, and that all and singular the allegations in the foregoing bill of complaint are true, as I am informed and verily believe.

W. S. C. OTIS.

Sworn to this 13th day of Sept'r, 1856.

F. W. GREEN, *Clerk.*

Exhibit "A."

COLUMBUS, *Jan'y* 17, 1854.

Board met pursuant to the call of the president. Present, M. G. Mitchell, pres't; William Dennison, jr., E. Martin, S. G. Brecount, T. M. Gwynne, J. R. Hilliard, D. Alexander, and D. D. Hunter. D. Alexander, sec'y P. I.

The following resolution was read, and unanimously adopted, viz:

Resolved, That the following named persons, to wit, M. G. Mitchell, pres't; S. G. Brecount, and D. Alexander be, and they are hereby appointed a committee of ways and means and connexions, with authority to negotiate for such an amount of money, or available securities as may be required, in their judgment, to complete the C. P. and I. R. R., and discharge all its liabilities other than those created by the bonds of said company. They are also authorized in making such negotiations, and in part consideration of the means obtained, or to be obtained, for the purpose above named, to obligate and bind the C. P. and I. R. R. Co., to preserve its present guage of 4 ft. 8½ in., to maintain and defend the suit on the contract made by said company with the Indianapolis and Bellefontaine R. R. Co., for business connexions and uniform guage, and to make such contract with regard to guage of road and business connexions with the Steubenville and Indiana R. R. Co., as they may deem proper and expedient. The committee are also hereby authorized, if it shall appear to them best, and most conducive to the interest of this company, to contract on behalf of the

company, that the guage of the C. P. and I. R. R., shall be changed from 4 ft. 8½ in. to 4 ft. 10.; also, so as to change the contract heretofore made with the S. and B. R. R. Co., with the consent of said company, as to permit them to change the guage of their road at pleasure, and to relieve them from the obligations run cars through between Indianapolis and Columbus, in the event of a want of uniformity in the guage of said roads, between said points.

The committee are further authorized, in the accomplishment of the object of their appointment, to wit, procuring means to complete the road, and discharge its liabilities, to have bonds prepared in the usual form, to an amount not exceeding the sum of $600,000, payable at such time and place, and bearing such rate of interest as they may think best; the same to be secured by a third mortgage upon the C. P. and I. R. R., its franchises and appurtenances, to be sold or otherwise disposed of, at their discretion, for the purpose above named. Any two of said committee shall constitute a quorum for the transaction of business under this resolution, and should sickness or other obstacle prevent either S. G. Brecount or D. Alexander from fulfilling the duties of their appointment, T. M. Gwynne is hereby appointed to fill the vacancy, and authorized to perform the duties of a member of said committee.

Exhibit "B."

This agreement, concluded this 25th day of February, A. D. 1854, between the Columbus, Piqua, and Indiana Railroad Company, by its authorized agents and committee, David Alexander and Solomon G. Brucount, party of the one part, and Wm. Neil & Wm. Dennison, jr., parties of the other part, witnesseth: That the said C. P. and I. R. R. Co. agrees to sell, and does hereby sell to the said Wm. Neil and Wm. Dennison, jr., six hundred of its third mortgage bonds, with proper interest, warrants, or coupons attached, each of said bonds for $1,000, in all $600,000, payable in not less than ten nor more than twenty years after the date thereof, as said Neil & Dennison may direct, to bear interest, at the rate of seven per centum, payable semi-annually, on the first days of July and January of each and every year, said interest and principal of said bonds to be made payable at the Ohio Life Insurance and Trust Company Bank, in the city of New York, and the payment thereof to be secured by a deed of trust, or mortgage, to be executed by said railroad company to Elias Fassett, of the city of New York, the covenants and stipulations of which shall be such as are contained in the two deeds of trust or mortgages heretofore executed by said co. to secure the payment of principal and interest of six hundred first and four hundred second mortgage bonds made by it, it being understood that said bonds hereby sold to said Neil & Dennison shall contain a clause or stipulation authorizing the

holder thereof to convert at any time before maturity into the stock of said company at its par value; said bonds shall be delivered to Neil & Dennison, or their authorized agent, on or before the first day of April next.

Said Columbus, Piqua, and Indiana Railroad Company hereby agrees and pledges its good faith to said Neil & Dennison, and to each and every person who shall become the holder, or be in any way interested in any of the 600 bonds hereby sold to said Neil & Dennison, that it will not at any time prior to the maturity and payment of the principal and interest of said bonds according to the tenor thereof, issue, or permit to be issued, any additional third mortgage bonds.

Said railroad company also agrees to confer and does hereby confer on said Neil & Dennison the full and exclusive power and privilege of adjusting all existing controversies and difficulties between it and the Indianapolis and Bellefontaine R. R. Company of negotiating and concluding with said I. and B. R. R. Co., all matters in any way relating to, or permanently fixing the guage of its railroad, and does hereby agree to fully and promptly ratify and confirm any and all the agreements which the said Neil & Dennison may make with the said I. and B. R. R. Co. in relation thereto.

And said C. P. & I. R. R. Co. further agrees to ratify and confirm any and all contracts and agreements that the said Neil and Dennison, or either of them, may make with said I. and B. R. R. Company, that may provide for or contemplate the modifying or rescinding any and all contracts now subsisting between the two companies, provided, that said Neil and Dennison, or either of them, shall obtain and deliver, or cause to be delivered, to the pres't of said C. P. and I. R. R. Co., the written consent of the directors of said I. & B. R. R. Co. to enter into a permanent contract with said C. P. and I. R. R. Co. when requested by it, for a running or business arrangement between the two companies, which shall secure the passengers and freight that may pass to or from the C. P. and I. R. R., over the road, or any part thereof, of the said I. and B. R. R. Co. from any and all discrimination of fare or tariff in favor of any other railroad, and particularly of the Bellfontaine and Indiana Railroad, shall provide for the through transportation of freight over the road of the two companies, the C. P. and I. and the I. and B., upon reasonable and reciprocal terms, without being required to be transhipped at Union, and shall also provide for the through ticketing of passengers over their said roads upon equitable terms.

Said C. P. and I. R. R. Co. agrees to lay, or cause to be laid, and to permanently maintain the track of its railroad from Urbana to Union, of such width or guage as said Neil and Dennison shall, within 90 days from the date of this instrument, verbally or in writing require. And in case they shall require said track to be laid of the width of 4 f't 10 in., said company agrees, within 90 days after the road between Urbana and Union shall be in opera-

tive condition, to commence and vigorously prosecute to completion the relaying of its track, from Urbana to Columbus, of a like width or guage. And said company also agrees, that whenever requested by the president of the Ohio Central Railroad Company it will enter into a running or business arrangement with that company, the terms of which shall correspond with those contained in the contract for like purposes between said Central Ohio and the Columbus and Xenia Railroad Company.

In consideration of said 600 bonds, and the agreements, stipulations, and pledges of the said C. P. and I. R. R. Co. herein contained, the said Neil and Dennison hereby agree to assume the following named debts due and becoming due of said company, to wit:

Hartford	Bank, Connecticut	$45,000 00
Orange	" N. Jersey	20,000 00
Exchange	" Columbus	10,000 00
Champaign Co.	" Urbana	3,000 00
C. C. and C. R. R.	Company	7,271 00
Wm. Neil		34,118 70
Ridgeway & Kimball		32,085 74
Piqua Br. Bank		10,000 00

Interest due July 1st next on 1st, 2d, and 3d mortgage bonds of said C. P. and I. R. R. Co., thirty thousand dollars, ($30,000,) with all interest and exchange thereon, and to pay said company the following sums of money at the times specified, that is to say:

$15,000 00, April 15 next.	$15,000 00, Aug't 15 next.
5,606 12, March 15 "	15,000 00, Sept. 15 "
15,000 00, May 15 "	7,917 84, Oct. 15 "
15,000 00, June 15 "	10,000 00, Nov. 15 "
15,000 00, July 15 "	

It being understood the entire consideration to be paid by said Neil and Dennison, jr., for said 600 bonds, is $305,000, and whatever sum above that may be paid by them in settling the foregoing debts of the company, and in making the above-named cash payments, shall be credited them on the payments for stock hereinafter specified.

Said Neil and Dennison further agree, to guarantee the subscription of stock in said company to the amount of $60,000, said stock being rated at its par value, and to be responsible for the payment thereof, as follows: $10,000 in hand, the receipt whereof is hereby acknowledged, the residue in monthly instalments of $5,000 each, commencing the first day of May next. Certificates of stock to be issued to the proper parties, as the same shall be paid for as aforesaid. It is understood that interest shall be adjusted fairly and equitably between the parties hereto, and that the current rate of exchange at Columbus, in the State of Ohio, shall be allowed the said Neil and Dennison, in all payments made by them

of the aforesaid debts of said company, payable out of said State of Ohio. It is further understood between the parties, that in case said C. P. and I. R. C. shall be temporarily or otherwise restrained, or in any way prevented, by legal process or otherwise, from changing the guage of its own road, or consenting for said Indianapolis and Bellefontaine Company to change the guage of its road, in case either change shall be provided for or required by said Neil and Dennison, pursuant to the terms of this instrument, said Neil and Dennison may, if they choose, return to said company, any and all of said 600 bonds which they may then hold or have any interest in, and for such returned bonds said company shall pay them, within a reasonable time, fifty per cent. on each and every dollar thereof, with all the then accrued unpaid interest thereon, and any and all endorsements on said returned bonds, said Neil and Dennison, or either of them, may erase and cancel. It is also understood that previous to the delivery of 600 bonds as aforesaid to said Neil and Dennison, the pres't of said C. P. and I. R. R. Co., shall be furnished with reasonable evidences of the ability of the said Neil and Dennison to promptly fulfil each and all the agreements and stipulations on their part herein contained. In case of any disagreement of the parties as to the true intent and meaning of any part of this agreement, the same shall be referred to two disinterested parties—said company to select one, and Neil and Dennison the other—who shall decide the matter in controversy, or if they cannot agree, they shall select an umpire, whose decision shall be final.

It is understood that the deed of trust or mortgage to be executed as aforesaid by said C. P. and I. R. R. Co., to secure the payment of the principal and interest of the 600 bonds sold to said Neil and Dennison as aforesaid, shall embrace all and singular the property, rights, privileges, and franchises of said co. to the same extent as are embraced by each of the two deeds of trust or mortgages heretofore executed by said company, to secure the principal and interest (or the payment thereof) of the 600 first and 400 second mortgage bonds heretofore made by said company as aforesaid. It is understood that the corporate name of the Indianapolis and Bellefontaine Railroad Company hereinbefore mentioned is the President and Directors of the Indiapolis and Bellefontaine Railroad Company.

(Signed) THE COLUMBUS, PIQUA, AND INDIANA RAILROAD COMPANY.
By DAVID ALEXANDER,
S. G. BRECOUNT,
Authorized Agents and Committee.

(Signed) WILLIAM NEIL,
WILLIAM DENNISON, JR.

Witness, M. L. NEVILLE.

It is mutually agreed between the parties to the foregoing contract, that Elias Fassett, of the city of New York, shall be and is hereby substituted for George S. Coe, as the trustee to be named in the trust deed or morgage to be executed by the said C. P. and I. R. R. Co., to secure the payment of the principal and interest of the 600 bonds sold by said company to said Neil and Dennison, as specified in the foregoing instrument.

(Signed) THE COLUMBUS, PIQUA, AND INDIANA RAILROAD COMPANY.
By DAVID ALEXANDER,
S. G. BRECOUNT,
Authorized Agent and Committee.

(Signed) WM. NEIL,
WILLIAM DENNISON, JR.

Witness, M. L. NEVILLE.
February 25, 1854.

It is mutually agreed between the parties to the foregoing contract, that the semi-annual payments of interest on the 600 bonds sold to said Neil & Dennison, as therein specified, shall be made at the place specified therein, on the 1st days of April and October, of each and every year, instead of the 1st days of July and January, as mentioned in said contract; all of said bonds are to be dated the 1st day of April, 1854.

(Signed) THE C. P. and I. R. R. Co.
By D. ALEXANDER,
S. G. BRECOUNT,
Authorized Agents and Committee.

(Signed) WM. NEIL,
WILLIAM DENNISON, JR.

Witness, M. L. NEVILLE.

Exhibit "C."

Memorandum of an agreement entered into this 7th day of March, 1854, by and between the C. C. and C. R. R. Co., the B. and I. R. R. Co., and the president and directors of the I. and B. R. R. Co., of the one part, and William Neil and William Dennison, jr. of the second part, witnesseth:

1st. Whereas, the said Wm. Neil and Wm. Dennison, jr., have been duly authorized and empowered by the board of directors of the Columbus, Piqua, and Indiana R. R. Co., to adjust all existing controversies and differences between said company and the president and directors of the Indianapolis and Bellefontaine R. R. Co., and to negotiate and conclude with said last-mentioned company all matters in any way relating to or permanently fixing the guage of its road, and also to permanently fix the guage of the

road of said Columbus, Piqua, and Indiana R. R. Co.: Now, the said Neil and Dennison hereby agree with the party of the first part, that the guage of the road of said president and directors of the Indianapolis and Bellefontaine R. R. Co. may be changed to and permanently fixed and established of the width of four feet and ten inches; and they further agree, that the guage of said Columbus, Piqua, and Indiana R. R. Co. shall be fixed and permanently established of the width of four feet and ten inches.

2d. In consideration whereof, the parties of the first part hereby agree with said Neil and Dennison to purchase (in such proportions as may be agreed on between themselves) thirty thousand dollars of the capital stock of said Columbus, Piqua, and Ind. R. R. Co., at par, and to pay for the same as follows, viz:

Five thousand dollars, April 1st, 1854; ten thousand dollars, July 1st, 1854; five thousand dollars, Sept. 1st, 1854; five thousand dollars, Nov. 1, 1854; and five thousand dollars, Jan'y 1, 1855. And the parties of the said first part further agree to endorse four hundred of the third mortgage bonds of the Columbus, Piqua, and Indiana R. R. Co., of one thousand dollars each, and payable with interest semi-annually, at the rate of 7 per cent. per annum, at the banking-house of the Ohio Life Insurance and Trust Co., in the city of New York, in fifteen years from the first day of April, 1854, such endorsement to be joint or several, and to be of the proper form for guaranteeing the punctual payment of the principal and interest of said bonds, according to the tenor and effect thereof.

(Signed) THE CLEVELAND, COLUMBUS, AND CINCINNATI R. R. CO.
By H. B. PAYNE, *President.*
THE BELLEFONTAINE AND INDIANA R. R. CO.
By J. H. GODMAN, *President.*
THE PRESIDENT AND DIRECTORS OF THE INDIANAPOLIS AND BELLEFONTAINE R. R. CO.
By JNO. BRAUGH,
J. H. GODMAN,
S. WITT,
Executive Committee.
WILLIAM NEIL,
WM. DENNISON, JR.

And thereupon, at said September term of said court, in the year of our Lord one thousand eight hundred and fifty-six, this cause was continued.

And afterwards, to wit, on the thirteenth day of October, in the year of our Lord one thousand eight hundred and fifty-six, came the said defendant, the Cleveland, Columbus, and Cincinnati Rail-

road Company, by its solicitors, and filed in the clerk's office of said court its answer to the said complainant's said bill of complaint, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Ohio, Circuit Court.

The answer of the Cleveland, Columbus, and Cincinnati Railroad Company, defendant, to the bill of complaint of Christian A. Zabriskie, complainant.

This defendant, now and at all times reserving to itself all benefit of exception to the errors and imperfections contained in said bill, for answer thereto, or to so much thereof as it is advised it is material for it to make answer unto, admits that it is a corporation located as in said bill stated, and deriving its powers mainly from the acts of the Legislature specifically named in said bill; but it says that there are other acts of said Legislature from which it also derives a portion of its powers as such corporation, some of which are applicable to this defendant alone, and some are general in their terms, and applicable to this defendant and to all other railroad companies incorporated by the Legislature of said State of Ohio, and organized prior to the first day of September, A. D. 1851, among which is the act entitled "An act regulating railroad companies," passed by said Legislature on the third day of March, A. D. 1851.

This defendant, further answering, admits that said complainant is and has been the owner of stock in said corporation as set forth in said bill, and that as such owner, he is entitled to his *pro rata* share of the net earnings of said company; and that the directors of said company, and the company itself, have no right to enter into or to pledge the credit, moneys, property, or earnings of said company, to any purpose, or to the support of any project not expressly or by implication authorized by the said acts constituting its character, and from which it derives its powers as aforesaid, or which is not, by reasonable construction, necessary to carry into effect such powers.

This defendant, further answering, admits that the said Columbus, Piqua, and Indiana Railroad Company was chartered and organized as stated in said bill, and thereby became entitled to the powers and privileges referred to in said bill, and to such as have since been conferred upon the same by the acts of a general nature of said Legislature above-referred to, and especially to such as were conferred by said act of March 3d, 1851, upon all railroad companies which were organized prior to said first day of September, 1851; and that the said Columbus, Piqua, and Indiana Railroad Company, entered into an arrangement as stated in said bill, with the said Indianapolis and Bellefontaine Railroad Company, for a uniform guage and for running said last-named roads in common,

as in said bill set forth. It also admits, that in or about the month of September, 1853, the said Columbus, Piqua, and Indiana Railroad Company, opened its said road, from Columbus to Urbana, with said guage so adopted as aforesaid, of four feet eight and a half inches, as stated in said bill. And that in said month of October, A. D. 1853, it in a great degree suspended the further prosecution of work on its said road for the want of means wherewith to prosecute the same; and that such substantial suspension continued until about the month of May, 1854, as stated in said bill.

This defendant, further answering, says that it is true that the guage which had so been adopted by said Columbus, Piqua, and Indiana Railroad Company, was different from that of all other connecting railroads in Ohio, as is charged in said bill; but whether the interest of said company required that a different guage should be adopted, this defendant has not sufficient information to enable it to form an opinion, and it therefore neither admits nor denies the same. But this defendant says, that it is informed and believes the fact to be, and so charges, that the principal means that said company then possessed for raising money to complete its road, consisted in the control it had over the guage of its own road by its charter, and that which it had acquired by the contract referred to in said bill with said Indianapolis and Bellefontaine Railroad Company over the guage of the road of the last-named company.

And this defendant, further answering, says that it is true as stated in said bill that the said Indianapolis and Bellefontaine Railroad Company commenced the change of its guage, and proceeded therein, until it was stopped by injunction issued at the instance of said Columbus, Piqua, and Indiana Railroad Company, as in said bill set forth.

This defendant, further answering, admits that said Columbus, Piqua, and Indiana Railroad Company appointed a "committee of ways and means and connections," as shown by the resolution of said company, a copy of which is appended to said bill, and marked "A;" but it denies that the bonds of said company, secured by its said first and second mortgages, had all been disposed of as stated in said bill; but, on the contrary, it is informed and therefore alleges that there then remained undisposed of by said company of said first mortgage bonds at least the sum of forty-seven thousand dollars, and of said second morgage bonds at least the sum of one hundred and eleven thousand dollars. This defendant further says, that it has not sufficient information to enable it to say whether it is or is not true, that said resolution was prepared by said William Dennison, jr., with a view to the purchase of the interest of the said Columbus, Piqua, and Indiana Railroad Company in and control over the guage of said Indianapolis and Bellefontaine Railroad, and of said bonds thereafter made, by said William Neil and the said Den-

nison, as charged in said bill, and therefore neither admits nor denies the same.

This defendant, further answering, admits that after the appointment of said "committee of ways, and means, and connections" as aforesaid, and after an attempt had been made by said committee to come to an arrangement with said Indianapolis and Bellefontaine Railroad Company, with regard to the said then pending injunction, a change of the said guage, which had so been adopted by said Columbus, Piqua, and Indiana, and said "Indianapolis and Bellefontaine Companies," and for a running connection between the two, and such attempt had failed, and after said committee had proceeded to Philadelphia, and had there opened negotiations with sundry parties for the determination of said guage question, and for the formation of running connections between the road of their company, and other roads then constructed, or about to be constructed, from Columbus aforesaid towards Philadelphia and Baltimore, the said Neil & Dennison did commence a negotiation with said committee for the purchase of said third mortgage bonds, and the said control of said guage for said Columbus, Piqua, and Indiana Railroad Company's road, and of that of said Indianapolis and Bellefontaine Railroad Company, under the contract theretofore made, respecting the same, by the last-named companies, and of the right to settle said injunction suit in the said bill mentioned, and that such negotiation resulted in the contract, a copy of which is appended to said bill, and marked "B." But this defendant is informed, and therefore says, that no agreement was made, nor were the terms of a contract agreed upon between the parties to said contract, until the said 25th day of February, 1854, on which day said contract bears date, nor until the parties to the same had, on that day, arrived at the city of Columbus, in said State of Ohio.

This defendant further says, that it is informed and believes, and therefore admits the fact to be, that said Neil and Dennison did expect to realize a considerable profit to themselves out of said contract, and the control thereby given them of said guage question—that being the consideration which induced them to enter into the same.

And this defendant, further answering, says, that it is true that during the year ending February 14th, 1854, the said Dennison was a director in and the vice president of said Columbus, Piqua, and Indiana Railroad Company, but it is informed and believes, and therefore charges the fact to be, that on said 14th day of February, 1854, the annual election of directors for said company took place; and that, although the said Dennison was at such election duly re-elected as a director in said company, yet he never did, in fact, accept said office under said re-election, nor qualify as such director, under the same; that he drew up and signed the paper referred to in said bill, declining to accept said office of director, under such re-election, or longer to serve in said capacity of direc-

tor; and at the first meeting of said board of directors after such annual election, he, the said Dennison, presented to said board the paper aforesaid, so declining said office, to wit, on the 2d day of March, 1854; and thereupon the vacancy in said board, occasioned by said non-acceptance, was filled by another, in accordance with the charter and by-laws of said company.

And this defendant, further answering, says that it is informed and believes, and so charges the fact to be, that before said Neil & Dennison entered into said contract with said committee, they had commenced negotiations with some of the principal directors and officers of the companies which so afterwards endorsed said bonds, and had received such assurances from them as to the probability of their being able to make the contract which was afterwards concluded, as set forth in said bill, for the endorsement of said bonds, that they, the said Neil & Dennison, were well satisfied that the same could be consummated; and that, relying upon such assurances, they entered into said contract with said committee; but that if they had been disappoiated, and said companies had failed to make good the assurances of said officers and directors aforesaid, the said contract with said committee would have fallen through, for the want of means on the part of said Neil & Dennison to carry out the same.

This defendant, further answering, says that it is not informed, and therefore cannot state, whether the supposed value of the stock of said Columbus, Piqua, and Indiana Railroad Company, at the date of said contract between the last-named company and the said Neil & Dennison, was fifty cents on the dollar or not; but is informed and believes, and therefore so charges the fact to be, that the said Neil & Dennison paid to said company the full amount of the par value of said stock purchased by them in pursuance of said contract; and that they paid the sum of three hundred and five thousand dollars for said six hundred thousand dollars in amount of said bonds, and for the right to control said guage question and settle said injunction suit, and that there was no apportionment of the amount so paid so as to fix the amount of the consideration given for said bonds, and that given for the control over said guage question and said injunction suit.

And the defendant, further answering, admits that after the date of the last-named contract, to wit, in the month of April, 1854, the said Columbus, Piqua, and Indiana Railroad Company, in pursuance of the said contract, issued and delivered to the said Neil & Dennison said bonds and said stock, as set forth in said bill; and this defendant avers, that at the time of such issue, the said Columbus, Piqua, and Indiana Railroad Company had full knowledge of the fact that said Neil & Dennison had made an arrangement with said Bellefontaine and Indiana Railroad Company, said Indianapolis and Bellefontaine Railroad Company and this defendant, for such endorsements, (such endorsements, in fact, being at the time printed

on the backs of said bonds before the execution of the same by the said Columbus, Piqua, and Indiana Railroad Company,) and that the consideration for such endorsement was the adjustment of said guage question and the settlement of said injunction suit.

This defendant, further answering, admits that the said Neil & Dennison, on the seventh day of March, 1854, in pursuance of the assurances that had so as aforesaid been given to them by some of the directors and officers of said Indianapolis and Bellefontaine Railroad Company, said Bellefontaine and Indiana Railroad Company entered into the contract with the three last-named companies, a copy of which is appended to said bill, and marked "C;" and that the said Payne, as the president of the said Cleveland, Columbus, and Cincinnati Railroad Company, in pursuance of said contract, did endorse said bonds, and purchase said stock set forth in said bill.

This defendant, further answering, admits that said contract was so entered into, and said stock purchased, and said endorsements made for the purpose of securing, without further delay, a change of the guage of said Indianapolis and Bellefontaine Railroad, as charged in said bill.

This defendant, further answering, admits that said Neil & Dennison, after said bonds were endorsed as aforesaid, sold the same to various individuals, as stated in said bill; but this defendant has no means of knowing what knowledge the purchasers of the same had of the power of the company to make said endorsements, and it submits the question to this honorable court, whether the endorsement of said bonds by this company was or was not within its legitimate powers as such corporation as aforesaid.

This defendant, further answering, says that it has no information that will enable it to say whether said Columbus, Piqua, and Indiana Railroad Company resumed work on its said road in the month of May, 1854, as stated in said bill; nor how long it prosecuted the same; nor what it will cost to finish said road; nor the amount of its floating indebtedness; nor what its condition is in any of the respects named in said bill; and that it can therefore neither admit nor deny said allegations so made in that behalf in said bill. But it avers that the full sum of three hundred and sixty-five thousand dollars was paid to said company by said Neil & Dennison, in accordance with the provisions of said contract so made by them with it as aforesaid; and that, by such payment, the said Columbus, Piqua, and Indiana Railroad Company received the benefit of the endorsements of said bonds so made by said companies as aforesaid.

This defendant, further answering, says that it is true that said Columbus, Piqua, and Indiana Railroad, though terminating at Columbus, the southern terminus of the road of this defendant, if completed as projected, with its connecting roads, would have been a competing road with the road of this defendant.

This defendant, further answering, says that at the time said contract was so entered into as aforesaid by this defendant with said Neil & Dennison, it was supposed by its board of directors that said board had full power and authority under the charter of this company to enter into the same; but, inasmuch as there were then pending before said board several applications on the part of other railroad companies for aid from this defendant, and inasmuch as doubts had been suggested as to the strict right of said board to enter into the contract above-named, and certain contracts for furnishing aid to other roads, without the vote of a meeting of the stockholders of this company directly authorizing the same, the board of directors of this defendant, at a meeting thereof, held at its office in Cleveland, on the 16th day of June, A. D. 1854, passed the following resolution, to wit:

Resolved, That the following propositions to aid other roads desiring to form a connection with the road of this company be severally submitted to a vote of the stockholders of this company, to be held at the office of the company, in Cleveland, on the first day of July next, at 10 o'clock a. m., under the 4th section of an act of the General Assembly of the State of Ohio, passed March 3d, 1851:

1st. The endorsement of $200,000 of the income bonds of the Bellefontaine and Indiana Railroad Company, by virtue of the order of the board, dated Jan'y 31, 1854.

2d. The endorsement, jointly and severally with the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine R. R. Co's, of $400,000 of the 3d mortgage bonds of the Columbus, Piqua, and Indiana R. R. Co., under the order of the board, dated March 6, 1854.

3d. The subscription of $50,000 to the capital stock of the Mississippi and Atlantic R. R. Co., under the order of the bond of this date.

4th. The assumption by the company of the stock subscribed and held in the name of individuals, but paid for with the money of the company, in the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine R. R. Co's.

Ordered, that the secretary publish notice of the time and place of such meeting in two of the daily papers in Cleveland, in the New York Daily Times, and in some paper at Columbus, and at Delaware.

And this defendant further says, that in pursuance of said resolution and order, notice of said meeting of the stockholders of this defendant was published in the Cleveland Daily Herald, and the Cleveland Daily Plaindealer, commencing on the 17th day of June, 1854, and continuing until the day appointed as aforesaid for said meeting; and that said notice was in like manner published in the other papers named in said resolution and order, as stated in said bill, such notice being in the form stated in said bill, and such publication being the mode ordinarily adopted by the defendant for

giving notice of meetings of its stockholders. But this defendant denies that said meeting was called, and the ratification by said meeting of said contract for the endorsement of said bonds sought or obtained, because of any apprehension on the part of the then directors of this defendant, of any personal liability attaching to themselves by reason of their action in the premises, as is untruly alleged in said bill. This defendant further says, that it is unable to say whether all or what portion of its stockholders in fact received notice of said meeting in time to attend the same; but it submits the questions to the determination of this honorable court whether said notice, both in its form and the manner of its publication, was a good and sufficient legal notice, and whether the meeting which convened in pursuance of the same was a legally called meeting, and had full power to pass upon the matters enumerated in said resolution so passed by said board on said 16th day of June, 1854, as aforesaid, although the stock represented at said meeting did not exceed, as it admits it did not, the amount stated in said bill. This defendant further says, that the action of said meeting in the premises was designed to conform, and did conform, in all respects, to the requirements of said act of March 3d, 1851; and that at said meeting of stockholders so convened as aforesaid, and which was held in pursuance of said notice, on said July 1st, 1854, the said contract bearing date March 7th, 1854, so entered into by the direction of the board of directors of this defendant, on the 6th day of March, 1854, with said Neil & Dennison, as charged in said bill, was laid before said meeting, and the same, together with the endorsement of said bonds so made in pursuance of said contract as aforesaid, was unanimously approved, adopted, and sanctioned by said said meeting, "as the proper act of this defendant," the holders of the stock of this defendant to the amount of more than eight thousand shares, (constituting about one-fifth of the stock of this defendant,) being present at said meeting, either in person or by proxy, and voting on said question.

This defendant further says, that the stock of this company, to the amount of about ten thousand shares in addition to the above-named amount, was represented at said meeting by proxy; but such proxy declined voting upon said question of ratification, assigning as his reason therefor, that he had no instructions as to a vote upon the same, his principals not knowing that the subject would be brought up for action at said meeting. This defendant further says, that the paper, a copy of which is appended to said bill and marked "A," was copied at length into the journal of the directors of this defendant, among the proceedings of said meeting of said board, on the 6th day of March, 1854, and a copy was also placed among the files of this defendant, and there remained at the time said stockholders' meeting was so held as aforesaid. And this defendant says that thereby each and all of said stockholders so voting to approve said contract and said endorsement had the

knowledge in fact, or had the means of acquiring the knowledge of the character in which the said Neil & Dennison entered into said contract for said endorsement and said change of guage. But this defendant admits that said meeting was not informed that said Columbus, Piqua, and Indiana Railroad Company was insolvent, for the reason that neither the then directors of this company, (the said Neil & Dennison,) nor any one else, so far as this defendant is informed and believes, then knew, or had reason to suppose, that such company was insolvent.

This defendant, further answering, admits the present insolvency of said Columbus, Piqua, & Indiana Railroad Company; that this defendant, jointly with said Bellefontaine and Indiana and said Indianapolis and Bellefontaine Railroad Companies, paid said semi-annual instalment of interest on the bonds so endorsed as aforesaid, which fell due on the first day of October, 1855, and that another semi-annual instalment of such interest fell due on the first day of April, 1856, which said Columbia, Piqua, and Indiana Railroad Company was wholly unable to pay; and that this defendant was about to pay and would have paid its portion of the same under said joint endorsement, to wit, one-third of the same, had it not been restrained from so doing by the injunction of this honorable court in this case granted, as is alleged in said bill. But this defendant submits to this honorable court the decision of the questions in said bill raised, whether, under all the circumstances of the case as above set forth, the said stock and bonds so sold by said Columbus, Piqua, and Indiana Railroad Company to said Neil & Dennison were and are wholly void; whether the president and directors of this company had no right or authority whatever to purchase said stock, or to endorse and guarantee said four hundred bonds, nor any right or authority whatever to pay any portion of said semi-annual instalment of interest, nor any such instalment hereafter to become due; whether the stockholders of this company, convened at said meeting held on the first day of July as aforesaid, had no right or authority to ratify said purchase, endorsement, and guarantee, so as to bind said complainant, or any other stockholder of this company not assenting thereto; and whether said acts of said president and directors and of said stockholders were or are contrary to the acts of incorporation of this company, as originally granted and as subsequently extended as aforesaid, and wholly void, as is alleged in said bill.

This defendant, further answering, says that it has no information other than the allegations contained in said bill as to the knowledge in fact of said complainant of, or his assent to, said purchase of stock, and said endorsement and guarantee of said four hundred bonds, and said attempted ratification of said acts on the part of said stockholders, and payment of interest, and it can therefore neither admit nor deny the same; but it charges that the said complainant was and is legally chargeable with such knowledge,

and that his assent or dissent cannot affect the question of the validity of said acts.

This defendant, further answering, says that it has not sufficient information to enable it to say whether said acts of said president and directors have greatly and permanently injured the value of the stock so owned by said complainant, or deprived him of any moneys to which he otherwise would have been entitled as alleged in said bill, and therefore neither admits nor denies the same.

This defendant having fully answered said bill of complaint, asks to be dismissed hence, with its costs in this behalf expended.

L. M. HUBBY, [SEAL.]
President of said Cleveland, Columbus, and Cincinnati Railroad Company.

BACKUS & NOBLE,
Of Counsel for Defendant.

UNITED STATES OF AMERICA,
Northern District of Ohio, ss:

Leander M. Hubby, being first duly sworn, says that he is the president of the above-named Cleveland, Columbus, and Cincinnati Railroad Company; that all the matters and things set forth in the foregoing answer, as of information from others, he believes to be true; and that all the other matters and things therein stated are true in substance and in fact.

L. M. HUBBY.

Sworn to before me this 13th October, 1856.

F. W. GREEN,
Clerk of the Circuit Court U. S. N. District of Ohio.

And afterwards, to wit, on the fourteenth day of October, in the year of our Lord one thousand eight hundred and fifty-six, came the said complainant by his solicitors, and filed in the clerk's office of said court his replication to said answer of said defendant, which is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Ohio.

In the circuit court.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY. } In equity.

The replication of Christian A. Zabriskie, complainant, to the answer of the Cleveland, Columbus, and Cincinnati Railroad Company, defendant.

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiences of the said answer, for replication thereunto saith, that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove, as this honorable court shall direct; and he prays as in and by his said bill he has already prayed.

OTIS, SEARS & WYMAN,
Solrs. for Complainant.

And afterwards, to wit, on the eighteenth day of October, in the year of our Lord one thousand eight hundred and fifty-six, there was filed in the clerk's office aforesaid the following agreed statement in this case, to wit:

UNITED STATES OF AMERICA,
Northern District of Ohio.

In the circuit court.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO. } In Equity.

It is agreed that, prior to the commencement of the above-entitled suit, the complainant requested the defendants, in writing, not to pay the interest or principal, or any part thereof, to become due on the bonds of the Columbus, Piqua, and Indiana Railroad Company, endorsed by the president of the Cleveland, Columbus, and Cincinnati Railroad Company, in connection with the president of the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Company, and which set forth and described in the complainant's bill; that he also, at the same time, notified the def'ts that he should require to pay over to himself, as one of the stockholders of said defendants, his share of the net profits arising from the resources of said defendants, deducting the necessary amount and probable contingent expenses of said defendants without withholding any moneys to pay the interest, or any part thereof, then soon to become due on said endorsed bonds; and that he also, in like manner, further requested said defendants to institute legal proceedings against the holders of said endorsed bonds, and other proper parties, for the purpose of having said endorsement and the purchase of said stock mentioned in said bill declared un-

authorized, illegal, and void, and without binding effect or legal obligation upon the defendants; all of which, the said defendant, through their board of directors, not only refused to do, but declared they would pay their proportion of the interest and principal of said endorsed bonds from the earnings of the road of the defendants, as the same should from time to time become due, unless restrained therefrom by legal process issued at the suit of said complainant, or some other stockholder of the defendants or other person. It is also further agreed, that the Bellefontaine and Indiana Railroad was opened from Union to Galion, for the transportation of passengers and freight, and was connected with the Cleveland, Columbus, and Cincinnati Railroad, at the latter point, in the month of July, 1853.

OTIS, SEARS & WYMAN,
Sol'rs for Complainant.
BACKUS & NOBLE,
Defendants' Solicitors.

Cleveland, Oct. 18, 1856.

And afterwards, to wit, at the November stated term of said court, in the year of our Lord one thousand eight hundred and fifty-six, this cause was continued.

And afterwards, to wit, on the twelfth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, came John A. Butler, Thomas Belknap, and W. H. D. Callender, by their solicitors, and filed in said court their petition in this case to be made parties defendant herein, which said petition is in the words and figures following, to wit:

CIRCUIT COURT U. S.,
For Northern District of Ohio.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO. } In Chancery.

To the honorable the circuit court of the U. States for the seventh circuit and northern district of Ohio:

Your petitioners, John A. Butler, Thomas Belknap, and W. H. D. Callender, all citizens and residents of the State of Connecticut, represent to your honors, that they are interested in the subject-matter in controversy in the above-entitled case, each of them being the holder of a bond or bonds, parcel of said series of four hundred bonds so guarantied by said defendants, the payment whereof is sought to be enjoined in said suit; and that they are advised by counsel, that it is expedient and proper for them to appear and answer said bill. They do therefore pray your honors, by

your order to be made herein, to allow your petitioners to become parties defendant to said bill and suit, and to answer and defend the same.

EWING & HENRY STANBERY,
Solicitors for Petitioners.

And afterwards, to wit, on the sixteenth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, being at the February special and adjourned term of said court, in said year, the following entry was made on the journal of said court, to wit:

CHRISTIAN A ZABRISKIE vs. THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO.	No. 201. In Chancery.

On motion to the court by Messrs. Ewing & Stanberry, solicitors for John A. Butler, Thomas Belknap, and W. H. D. Callender, and upon the filing of their petition praying therefor, it is ordered by the court that said John A. Butler, Thomas Belknap, and W. H. D. Callender, be allowed to become parties defendant to this suit, and to file their answer to the complainant's bill within 30 days.

And on the thirteenth day of April, in the year of our Lord one thousand eight hundred and fifty-seven, came the said defendants, John A. Butler, Thomas Belknap, and W. H. D. Callender, by their solicitors, and filed in said court their answer to the said complainant's said bill of complaint, which said answer is in the words and figures following, to wit:

The answer of John A. Butler, Thomas Belknap, and W. H. D. Callender, all of whom are citizens and residents of the State of Connecticut, to the bill of complaint of Christian A. Zabriskie, exhibited in the circuit court of the United States for the northern district of Ohio, against the Cleveland, Columbus, and Cincinnati Railroad Company.

These defendants having been admitted by the order of said court to appear and answer and defend the said suit, as parties defendant thereto, for answer, say: That they are severally interested in the subject-matter of said suit, as holders of certain of the said series of four hundred bonds so guarantied by said Cleveland, Columbus, and Cincinnati Railroad Company—that is to say: The said defendant, John A. Butler, is the owner and holder of two of said bonds, numbered respectively, 283 and 295, with all the unpaid coupons attached, which bonds he purchased in the month of March, A. D. 1855.

The said Thomas Belknap is the owner and holder of one of said bonds, numbered 281, with all the unpaid coupons attached, which bond he purchased in the month of May, A. D. 1855.

The said W. H. D. Callender is the owner and holder of one of said bonds, numbered 282, with all the unpaid coupons attached, which bond he purchased in the month of May, A. D. 1855.

That each of said bonds is for the principal sum of one thousand dollars, and is of like tenor, except as to the specific number written on each bond to distinguish it from all others, with the bond set forth in exhibit A A, attached to this answer, and prayed to be taken as part thereof.

That to each of said bonds is attached the semi-annual coupons and interest warrants referred to in the body thereof, except the coupons which fell due prior to the first day of April, A. D. 1856.

That on the said several bonds so held by these defendants, respectively, there was, at the dates of their respective purchases of the same, and still remain, three several guaranties endorsed: one by the said Bellefontaine and Indiana Railroad Company, one by the said president and directors of the Indianapolis and Bellefontaine Railroad Company, and one by the said Cleveland, Columbus, and Cincinnati Railroad Company, in the manner and form shown in said exhibit A A.

The original bonds, with the coupons and endorsements aforesaid, remain in the possession of these defendants, ready to be produced as your honors may direct.

And these defendants, each answering for himself, says that he purchased the said bonds or bond so owned by him in good faith, and paid a valuable consideration therefor, fully believing that the same and the several guaranties endorsed thereon were in all respects valid, and without any notice, information, or belief, that there was any want of power, want of consideration, or any fraud or other defect in the said bonds or coupons, or in the said guaranties, or any or either of the same.

That at the respective dates of the several purchases of said bonds, so made by these defendants respectively, and for some time prior and subsequently thereto, large amounts of said series of four hundred bonds, so guaranteed as aforesaid, were current and met ready sales, in the city of New York and other eastern markets, and so far as the knowledge, information, or belief of these defendants, or either of them, extends, no question was raised or entertained as to their validity, but the same were generally and notoriously considered as safe and secure investments.

That during the time last aforesaid, when the said series of bonds were so current, printed circulars or statements, containing copies of the resolutions of the stockholders of said three railroad companies which so guaranteed the said bonds, were exhibited and shown to persons about to purchase said bonds; one of which said circulars is contained in said exhibit A. A., and made part of this answer. And these defendants are advised, and so state and believe, that the several resolutions so set forth in said printed circular are correctly copied from the journals of said respective rail-

road companies, and were duly passed and adopted as they purport to be at the dates and in the manner stated therein.

That these defendants are advised, and so believe the fact to be, that the greater part of all of said series of four hundred bonds, so guaranteed as aforesaid, were sold and negotiated at the full market value of said bonds to various parties, who purchased the same in good faith, relying on said guarantees as valid; and that the same are now outstanding and held by various persons who have so acquired title to them as aforesaid.

And these defendants, each for himself, denies the allegations of said bill, that they or either of them, at or before the time they or either of them so purchased the said bonds, they or either of them did know that said bonds were not endorsed and guaranteed by said president of said Cleveland, Columbus, and Cincinnati Railroad Company, and delivered to the said Elias Fassett or the said Neil and Dennison, for any of the purposes specified in the aforementioned acts of incorporation or necessarily incident thereto, or in the course of the legitimate business of said company, or that they or either of them knew, or were presumed to know, that said president and directors of said Cleveland, Columbus, and Cincinnati Railroad Company had no authority to make said endorsement, or that the same was liable to be set aside. On the contrary thereof, these defendants, each for himself, repeats and states that he had no knowledge, information, and belief of any defect or want of power in said guaranty or endorsement, and did then well believe that said guaranty was made within the legitimate purposes and powers of said last-mentioned company, and that they did presume, and of right were authorized to presume, from said guaranty and the resolutions of said board of directors and the resolutions of the said stockholders, that the said guaranty was valid, duly authorized, and within the powers and in aid of the legitimate purposes of the act to incorporate said last-mentioned company, the various acts amendatory thereto, and other statutes of the State of Ohio in aid of the said corporation.

And these defendants further state, that the guaranty of the said Cleveland, Columbus, and Cincinnati Railroad Company, owing to the established credit, solvency, and pecuniary ability and means of said company, and the general confidence in its good faith and punctuality in meeting its engagements, gave to said series of four hundred bonds their chief currency and value, and was mainly relied on by these defendants, and as they believe by all other parties who purchased said bonds, and was the controlling inducement on the part of these defendants in purchasing said bonds, so much so, that without that guaranty and full reliance on its validity, these defendants would not have purchased any of said bonds.

Further answering, these defendants say, that when they so purchased said bonds, and until the exhibition of said bill of complaint, they had no knowledge, information, or belief of the dealings and

contracts between said several corporations and said Neil & Dennison, set out and exhibited by the said bill of complaint, and they are advised and so insist, if any fraud or misrepresentation were practised by said Neil & Dennison therein, (which these defendants do in no sort admit,) that notwithstanding, these defendants are not to be made answerable therefor; but as to all such alleged fraud and misrepresentation, these defendants, upon the showing of this answer, are entitled to protection, and do ask of this court protection, in the character of bona fide purchasers of negotiable securities for valuable consideration, and without notice of such alleged fraud or misrepresentation.

Further answering, these defendants do deny the allegations of the said plaintiff that the road of said Cleveland, Columbus, and Cincinnati Company is not connected with the road of said Columbus, Piqua, and Indiana Railroad Company; and they are informed and so state, that the said two roads are in fact connected at Columbus, that point being a common terminus of each of said roads, and that by means of the uniform guage of 4 feet 10 inches, so established under the contracts set out in the said bill, the cars of each of said roads are run over the other, and a perfect running connection thereby established.

These defendants have further been informed and so state, that prior to said contracts and said change of guage, the guage of 4 feet 8½ inches so adopted by said Col., Piqua, and Ind. R. R. Company, and the contract so existing between that company and the Indianapolis and Bellefontaine Railroad Company, for a running connection upon the same guage of 4 feet 8½ inches for both roads, interfered or was deemed to interfere very seriously with the interests of the said three railroad companies who made the said guarantees, and that the true condition of the case was as follows:

The guage of four feet 8½ inches was the one adopted by the Indiana roads running from the Wabash easterly through the State of Indiana; so, too, the same guage was adopted by the Great Central Railroad of Pennsylvania, running from Philadelphia westwardly, through the State of Pennsylvania, to Pittsburgh.

Two other roads were then in a course of construction, to wit, the Steubenville and Indiana, and the said Columbus, Piqua, and Indiana, designed to complete the connection between Pittsburgh and the town of Union, on the east line of Indiana, both of which, by the adoption of the 4 feet 8½ inch guage, would furnish, in connection with said Indiana and Pennsylvania roads, a continuous and unbroken railway track of uniform guage from the Wabash to the city of Philadelphia. On the other hand, the said Bellefontaine and Indiana railroad and the said Cleveland, Columbus, and Cincinnati railroad had both adopted the guage of four feet ten inches; which guage, commencing at the said town of Union on the Indiana line, being the western terminus of the said Indianapolis and Bellefontaine railroad, was continued along the said

Bellefontaine and Indiana road to Galion, and thence along said Cleveland, Columbus, and Cincinnati road to the city of Cleveland, and thence was continued eastwardly to the city of New York by the Lake Shore and New York Central railroad.

In this condition of things, it was considered an object of great importance by said Cleveland, Columbus, and Cincinnati Railroad Company to effect a change of the guage of said Indiana road and of said Col., Piqua, and Indiana road from four feet 8½ inches to four feet ten inches, by means of which the traffic east and west, along the said uniform guage of 4 feet 8½ inches, would be diverted at Union by means of the Bellefontaine and Indiana road, and at Columbus by immediate connection, so as to pass in part or altogether over the road of said Cleveland, Columbus, and Cincinnati Company.

In order to accomplish this purpose, and to break up the said uniform guage of 4 feet 8½ inches, some of the principal stockholders and leading parties interested in said Cleveland road and said Bellefontaine road prevailed upon and agreed with the said Indianapolis and Bellefontaine railroad to change its guage between Indianapolis and Union from 4 feet 8½ inches to four feet ten inches; and in consequence of such agreement, the said guage was in process of being so changed, when further proceedings therein were arrested by injunction at the suit of said Columbus, Piqua, and Indiana Company, as stated in said bill, on the footing of the contract so existing for a uniform guage and running connection. It thus became apparent that the control over this important matter of the guage between Indianapolis and Columbus was held by the said Col., Piqua, and Indiana Company; and, in point of fact, in the embarrassed state of the affairs of that company, and in view of the competition and rivalry of the great lines of road interested therein, this control was of great value to said company, and its most available reliance for aid towards the completion of its road.

These defendants have gone into the foregoing detail of facts, according to their information and belief, to show the motives and inducements to the said guarantees of said three railroad companies. The said exhibits A, B, and C, attached to said bill, show in what manner the object of said three companies was accomplished; and in performance thereof, and full reliance on their validity, the guage of said Indiana road, as these defendants are informed, has been changed to 4 feet 10 inches; and the guage of said Columbus, Piqua, and Indiana railroad has, so far as it is constructed, been changed and fixed also to 4 feet 10 inches; and at the date of filing this bill in this case, and for a long time before, and continually since, the said 4 feet 10 inch guage has been maintained by both of said roads; and during all that time, the said Cleveland, Columbus, and Cincinnati Company hath been in the full enjoyment and fruition of the said contract.

As to the allegation of said bill, that said Col., Piqua, and In-

diana railroad, with its proposed connections, will, when completed, become a competing road with said Cleveland, Columbus, and Cincinnati road, these defendants are informed and so state, that the necessary effect of said change of guage will be to diminish said competition, and to carry traffic and business over said last-mentioned road, which otherwise would have passed along said continuous east and west line of transportation.

As to the allegations of said bill touching the ownership by said Neil & Dennison of said bonds and stock, and of the control of said guage, at the time of said contract to make the guaranty, and at the time of making and the time of ratification of the same, these defendants are informed and so state, that the contract between Neil & Dennison and said committee of ways and means and connections was entirely dependent upon the obtaining of some aid in the form of guaranty or otherwise, upon the consideration of said guage arrangement, without which the said Neil & Dennison would have been unable to perform said contract; and that it well appears by the said contract that endorsements of said bonds were in the contemplation of the parties as a means to make them available, and but for such endorsements the said Neil & Dennison could not have fulfilled their said contract; and the endorsements so agreed to be made furnished the reasonable evidence of the ability of said Neil & Dennison to comply with the said contract, according to the stipulation contained therein.

And furthermore, as to said allegations, these defendants are advised and so insist that the control over said guage, which was the sole consideration on the part of said three guaranteeing companies for making said guaranties, did not then, or at any time, belong to said Neil and Dennison, as owners thereof, and was never sold, or capable of being sold to them by said Columbus, Piqua, and Indiana Company, but, on the contrary thereof, the said Neil and Dennison were therein only the agents of said company, and as such empowered on behalf of the company to make contracts and arrangements touching the said guage, and that the contract so made between Neil and Dennison and said three companies is, as it purports, made under the authority and power of said Columbus, Piqua, and Indiana Company, so conferred, and, in effect, furnished aid to said company in the construction of its road.

These defendants deny that said contract was entered into, said stock purchased, and said bonds guarantied, for the sole purpose of securing a change of the guage of said Indianapolis and Bellefontaine Road, and they state that such contract, subscription, and endorsement, were also intended to secure a change in the guage of said Columbus, Piqua, and Indiana Railroad Company.

As to the allegation that the notice published for the meeting of the stockholders of said Cleveland, Columbus, and Cincinnati Railroad was insufficient, in regard to its character and mode of publi-

cation, and did not, in fact, come to the knowledge of a majority of its stockholders, these defendants are advised, and so insist, that the same was sufficient in law, both in its character and mode of publication. Whether it came to the knowledge of a majority of the stockholders, these defendants do not know, nor do they consider that fact material to its validity; but they are informed, and so insist, that the notice did come to the knowledge of said plaintiff, and that he was represented at said meeting of stockholders convened under said notice, by a duly constituted attorney or proxy, who was then fully notified of the said contract, subscription of stock and guarantee, and failed to vote against the proposed ratification, or to take any step to prevent the same, or its fulfilment.

And these defendants are further advised, and so state, that besides this constructive notice through his said attorney, the plaintiff was about the same time personally notified of the contract, subscription of stock, guarantee, and ratification, and made no attempt to arrest or enjoin the same, until, by the failure of said Columbus, Piqua, and Indiana Company, he had come to consider the said contract as less beneficial to said Cleveland, Columbus, and Cincinnati Company, than was at first supposed.

These defendants are further advised, and so state, and insist, that the said contract, subscription of stock, guaranty, and ratification, on the part of said Cleveland, Columbus, and Cincinnati Railroad Company, its directors, and stockholders, are valid, and in conformity with the power and authority thereof; that no proceeding on the part of the State, or the public, has ever been instituted, by quo warranto or otherwise, to question the same; that both said corporations—that is to say, the said Cleveland, Columbus, and Cincinnati Company, and the said Columbus, Piqua, and Indiana Company—as also the said two other companies, have always recognized and yet continue to recognize and abide by the same; and that a court of equity ought not, at the instance of any stockholder, and especially of the plaintiff, after such notice and acquiescence, to interpose by injunction as prayed for, and especially not as against these defendants and other bona fide holders of the said guarantied bonds.

As to the allegation that said contract, subscription of stock, and guarantee, have depreciated the value of said plaintiff's stock, these defendants have no means of knowing, and cannot admit the truth of that allegation; but they are advised, and so insist, that whether these arrangements have resulted in profit or loss, or whether the said changes of guage, and the forming of said running connections, have turned out to be advantages or otherwise, cannot affect the validity thereof, nor can these defendants be made responsible for any loss which may have happened to either of the contracting parties in the exercise of their own discretion in the premises.

And finally, these defendants do state, that when they so purchased said bonds, they had no knowledge, information, or belief,

of the alleged irregularities in said notice to stockholders, and inasmuch as said guarantee and said resolutions of the said directors, and said ratification of said stockholders, were clothed in all due form, so as to appear to be in the due exercise of the powers of said corporation, these defendants cannot be prejudiced by such alleged irregularities.

These defendants, having fully answered the allegations of said bill, so far as they have any knowledge, information, or belief, pray that said injunction be dissolved, and that the said bill be dismissed at the costs of said plaintiff.

JOHN A. BUTLER,
T. BELKNAP,
W. H. D. CALLENDER.
TH. EWING,
HENRY STANSBERRY,
Solicitors for Defendants.

THE STATE OF CONNECTICUT,
Hartford County, ss:

Before me, the subscriber, a judge of the superior court of said State, personally came John A. Butler, Thomas Belknap, and W. H. D. Callender, the persons who made the foregoing answer, and being by me duly sworn, do severally say, that the matters contained in the foregoing answer, so far as stated on the information of others, they believe the same to be true, and so far as stated on their knowledge, the same are true.

Sworn to and subscribed before me, this 27th day of March, A. D. 1857.

ORIGEN S. SEYMOUR,
Judge Sup'r Court.

Exhibit A A.

Guarantee bonds of the Columbus, Piqua, and Indiana Railroad Company.

The undersigned offers for sale bonds of the Columbus, Piqua, and Indiana Railroad Company. These bonds are due April 1st, 1869, each for the sum of 1,000 dollars, with coupons attached, bearing interest, at the rate of seven per cent. per annum, payable at the office of the Ohio Life Insurance and Trust Company, in the city of New York, on the 1st day of April and the 1st day of October.

These bonds are endorsed (the prompt payment of the principal and the interest being guarantied) by the following railroad companies, viz:

Cleveland, Columbus, and Cincinnati, with a capital of $4,000,000
Bellefontaine and Indiana..... 1,722,231

Indianapolis and Bellefontaine..... 787,975
The capital of the Columbus, Piqua, and Indiana Company, is..... 900,000
and the bonds constitute a third mortgage upon the same.

The endorsements were made under the following circumstances: The guage of the Cleveland, Columbus, and Cincinnati Railroad is four feet ten inches, that of the Columbus, Piqua, and Indiana Road was four feet eight and a half inches. The latter company claimed to have an arrangement with the Indianapolis and Bellefontaine Railroad Company, by which the latter was compelled to adopt the guage of the Columbus, Piqua, and Indiana Railroad. All the companies, including the Bellefontaine and Indiana, being desirous of a running connection, it was finally agreed between them that the guage of the Cleveland, Columbus, and Cincinnati Road should be adopted, and that, as a consideration for the change of its track and machinery, and the relinquishment of its claims upon the Indianapolis and Bellefontaine Company, the other three companies agreed to endorse the bonds of the Columbus, Piqua, and Indiana Railroad Company, to the amount of $400,000.

In pursuance of the above arrangement, the litigation then pending in the premises was stopped, the costs paid, and the endorsement in question made by the three companies.

From the above statement it is evident that there can be no question as to the sufficiency of the consideration received by the three companies respectively for such endorsement.

As regards the endorsement of the Cleveland, Columbus, and Cincinnati Road, it may be stated that the highest legal opinion has been given to its regularity in all respects, and its accordance with the 4th section of the act of March 3d, 1851, entitled "An act relating to railroad companies," (Ohio laws, vol. 49, p. 96,) by which it is provided, that any railroad company heretofore or hereafter incorporated, may at any time, by means of subscription to the capital stock of any other company, or otherwise, aid such company in the construction of its railroad for the purpose of forming a connection, &c., &c., &c.

A copy of the bond is annexed; also certified copies of the action of the stockholders of the several companies in the premises, March 22d, 1855.

CLEVELAND, July 1, 1854.

At a meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, held at the office of the company, in Cleveland, this day, pursuant to a call of the board of directors dated June 16th, 1854—capital stock to the amount of 18,984 shares being represented—

W. B. Hubbard, esq., of Columbus, was called to the chair, and M. J. Williamson appointed secretary.

On motion, the following resolution was adopted, viz:

Resolved, That the endorsement, jointly or severally, with the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies, of $400,000 of the 3rd mortgage bonds of the Columbus, Piqua, Indiana Railroad Company, by order of the board, March 6, 1854, be and the same is approved, adopted, and sanctioned by this meeting as the proper act of this company.

(Signed) W. B. HUBBARD, *Chairman.*
(Signed) M. J. WILLIAMSON, *Secretary.*

I certify the above to be a true copy from the minutes of the meeting.

(Signed) M. J. WILLIAMSON,

OFFICE OF THE BELLEFONTAINE AND INDIANA RAILROAD COMPANY, MARION, July 20, 1854.

Resolved, That the contract entered into on the 7th day of March, 1854, by the Cleveland, Columbus, and Cincinnati Railroad Company, by H. B. Payne, president; the Bellefontaine and Indiana Railroad Company, by James H. Godman, president; and the president and directors of the Indianapolis and Bellefontaine Railroad Company, by John Brough, James H. Godman, and S. Witt, executive committee, authorized by the directors of the first-named company, March 6th, year aforesaid, and approved respectively by the directors of the two last-named companies, the 25th and 23d of said month, which contract among other things, provides, for the consideration therein specified, that the said three companies shall purchase, in such proportions as may be agreed on between themselves, thirty thousand dollars of the capital stock of the Columbus, Piqua, and Indiana Railroad Company, at par, and pay for the same as follows, viz: five thousand dollars, April 1st, 1854; ten thousand dollars, July 1, 1854; five thousand dollars, September 1, 1854; and five thousand dollars, January 1, 1854; and shall also endorse four hundred of the third mortgage bonds of said Columbus, Piqua, and Indiana Railroad Company, of one thousand dollars each, payable with interest semi-annually, at the rate of seven per cent. per annum, at the banking-house of the Ohio Life Insurance and Trust Company, in the city of New York, in fifteen years from the first day of April, 1854, said endorsement to be joint or several, and to be of the proper form of guaranteeing the punctual payment of the principal and interest of said bonds, according to the tenor and effect thereof, (all of said endorsements were made accordingly, on the 7th day of April, 1854; those of the said Cleveland, Columbus, and Cincinnati Railroad Company, by H. B Payne, president; Bellefontaine and Indiana Railroad Company, by James H. Godman, president; the president and directors of the Indianapolis and Bellefontaine Railroad Company, by James H. Godman, vice president,) be, and the same is hereby unanimously ratified and approved.

Ordered, That the secretary prepare and forward a copy of the foregoing resolution, officially certified to by him, to the president of the Columbus, Piqua, and Indiana Railroad Company, and a like copy to Elias Fassett, esq., of New York city, trustee.

I certify that the above resolution and order were unanimously passed by a meeting of the stockholders of the Bellefontaine and Indiana Railroad Company, held at their office, in Marion, Ohio, on the 20th of July, 1854.

In witness whereof, I hereto affix the corporate seal of said company.

(Signed) J. M. TOWNSEND, [L. S.]
Secretary B. and I. R. R. Co

At a regular meeting of the stockholders of the Indianapolis and Bellefontaine Railroad Company, convened at Indianapolis, on the 21st day of July, 1854, the following resolution passed unanimously:

Resolved, That the contract entered into on the 7th day of March, A. D. 1854, by the Cleveland, Columbus, and Cincinnati Railroad Company, by H. B. Payne, president; the Bellefontaine and Indiana Railroad Company, by James H. Godman, president; and the president and directors of the Indianapolis and Bellefontaine Railroad Company, by John Brough, James H. Godman, and Stillman Witt, executive committee, authorized by the directors of the first-named company, March 6, 1854, and approved by the directors of the two last-named companies respectively, the 23d and 25th of March, 1854, which contract, among others things, provides, for the consideration therein specified, that the said three companies shall purchase, in such proportion as may be agreed on between themselves, thirty thousand dollars of the capital stock of the Columbus, Piqua, and Indiana Railroad Company, at par, and pay for the same as follows, to wit:

Five thousand dollars, April 1st, 1854; ten thousand dollars, July 1st, 1854; five thousand dollars, Sept. 1, 1854; five thousand dollars, December 1st, 1854; and five thousand dollars, January 1st., 1855; and shall also endorse four hundred of the third mortgage bonds of the said Columbus, Piqua, and Indiana Railroad Company, of one thousand dollars each, payable with interest semi-annually, at the rate of seven per cent. per annum, at the banking house of the Ohio Life Insurance and Trust Company, in the city of New York, in fifteen years from the first day of April, A. D. 1854; said endorsement to be joint or several, and of the proper form for guaranteeing the punctual payment of the principal and interest of said bonds, according to their tenor and effect, (all of which endorsements were made accordingly, on the 7th day of April, 1854: those of the Cleveland, Columbus, and Cincinnati Railroad Company, by H. B. Payne, president; the Bellefontaine and Indiana Railroad Company, by James H. Godman, president;

and the president and directors of the Indianapolis and Bellefontaine Railroad Company, by James H. Godman, vice president, be, and the same is hereby approved and confirmed.

The question being on the adoption of the resolution, after discussion, was taken by the unanimous adoption of the resolution.

In testimony whereof, I have herewith attached my signature and affixed the sale of the company, this 28th day of August, A. D. 1854.

[L. S.]

O. F. THOMPSON, *Secretary.*

Form of the Bond, and endorsement upon it.

UNITED STATES OF AMERICA,
State of Ohio.

Columbus, Piqua, and Indiana Railroad Company.

No. 449..... Seven per cent. bond.....$1000

The Columbus, Piqua, and Indiana Railroad Company acknowledge themselves to owe Elias Fassett, or bearer, one thousand dollars, which sum said company promise to pay the said Elias Fassett, or to the holder hereof, at the office of the Ohio Life Insurance and Trust Company, Wall street, in the city of New York, on the first day of April, in the year 1869, and also interest thereon at the rate of seven per cent. per annum, semi-annually, on the first day of October next, and of each April and October thereafter until the said principal sum shall be paid, on the presentation of the annexed interest warrants at said office. And the said company also agree to transfer to the holder thereof, at any time before said principal sum shall fall due, when such holder shall elect to receive the same, on the delivery of this obligation and of the unpaid interest warrants to the trustee named in the annexed certificate, or his successors in the trust, in the city of New York, or to the treasurer of said company, in the city of Piqua, Ohio, twenty shares, of fifty dollars each, of the capital stock of said company, in exchange for and satisfaction of this obligation. And the said company further agree that this obligation, and all rights and benefits arising therefrom, may be transferred by general or special endowment, or by delivery, as if the same were a note of hand payable to bearer, and hereby waive all benefits from valuation or appraisement laws.

In testimony whereof, the said company have hereunto caused to be affixed their corporate seal, and these presents to be subscribed by their president, this first day of April, in the year 1854.

(Signed) M. G. MITCHELL,

[L. S.] *President.*

I, Elias Fassett, hereby certify that the Columbus, Piqua, and Indiana Railroad Company have conveyed to me, by deed bearing

date April 1, 1854, their road, with its income and franchises, and all the property pertaining thereto, in trust, for the use and benefit of the holders of their obligations of similar tenor as the foregoing, issued and to be issued, to an amount not exceeding in all six hundred thousand dollars, with power to take possession of, use, and sell the same, or any part thereof, in case of sixty days' default in paying the interest or principal of said obligation, or any of them, as by reference to said deed of trust, which I have ordered to be recorded in the several counties in or through which said railroad is located, will more fully and at large appear. And I further certify that the foregoing is one of the obligations referred to in, and secured by said deed, subject to mortgages heretofore executed, for ten hundred thousand dollars.

(Signed) ELIAS FASSETT, *Trustee.*

Coupons attached, viz:

The Columbus, Piqua, and Indiana Railroad Company will pay to the holder hereof, on the first day of April, 1855, at the Office of the Ohio Life Insurance and Trust Company, in the city of New York, thirty-five dollars interest due on that day on their bond.

No. 449. (Signed) M. G. MITCHELL,
President.

$35, &c., &c., &c.

The Bellefontaine and Indiana Railroad Company, for value received, hereby warrant and guarantee the punctual payment of the interest and principal of this obligation.

In testimony whereof, the said company in pursuance of a resolution of the board, passed 25th day of March, 1854, have caused these presents to be signed by its president, this 7th day of April, 1854.

(Signed) THE BELLEFONTAINE AND
INDIANA RAILROAD COMPANY,
By JAMES H. GODMAN, *President.*

The president and directors of the Indianapolis and Bellefontaine Railroad Company, for value received, hereby warrant and guarantee the punctual payment of the interest and principal of this obligation.

In testimony whereof, the said company, in pursuance of a resolution of the board, passed 23d day of March, 1854, have caused these presents to be signed by its president, this 7th day of April, 1854.

(Signed) THE PRESIDENT AND DIRECTORS
OF THE INDIANAPOLIS AND
BELLEFONTAINE RAILROAD COMPANY,
By JAMES H. GODMAN, *Vice President.*

The Cleveland, Columbus, and Cincinnati Railroad Company, for value received, hereby warrant and guarantee the punctual payment of the interest and principal of this obligation.

In testimony whereof, the said company, in pursuance of a resolution of the board passed 6th day of March, 1854, have caused these presents to be signed by its president, this 7th day of April, 1854.

(Signed) THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY,
By H. B. PAYNE, *President.*

STATE OF CONNECTICUT,
Hartford County, Superior Court, ss:

CLERK'S OFFICE.

I, Wait N. Hawley, clerk of the county of Hartford and of the superior court within and for said county, and keeper of the seal thereof, hereby certify that the Hon. Origin S. Seymour was, on the 27th day of March, A. D. 1857, ever since has been, and now is, a judge of the superior court within and for the said State, duly elected and sworn, with authority, by the laws of this State, to administer oaths, and take the acknowledgment of deeds and other instruments; that I am acquainted with his handwriting; that the signature to the instrument hereto annexed, purporting to be his, is his genuine, official signature; and that said instrument is executed and acknowledged according to the laws of the State of Connecticut.

In testimony whereof, I have hereunto set my hand and the seal of said superior court, at Hartford, in said county and State, on this twenty-seventh day of March, A. D. 1857.
[SEAL.]
WAIT N. HAWLEY, *Clerk.*

And thereupon, to wit, at the said February special and adjourned term of said court, in said year A. D. 1857, this cause was continued.

And afterwards, to wit, on the eighteenth day of April, in the year of our Lord one thousand eight hundred and fifty-seven, came the said complainant, by his solicitors, and filed in the clerk's office aforesaid his replication to the said answer of said John A. Butler, Thomas Belknap, and W. H. D. Callender, and which said replication is in the words and figures following, to wit:

Replication.

UNITED STATES CIRCUIT COURT,
Northern District of Ohio, ss:

CHRISTIAN A. ZABRISKIE
against
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY, and others. } In Chancery.

The replication of Christian A. Zabriskie, the complainant to the

joint and several answer of John A. Butler, Thomas Belknap, and W. H. D. Callender, three of the defendants.

This repliant, saving and reserving to himself all, and all manner of advantage of exception to the manifold inconsistencies of the said answer, for replication thereunto saith: that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all of which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and prays as in and by his said bill he has already prayed.

W. S. C. OTIS,
Sol'r for Compl't.

And afterwards, to wit, at the May special and adjourned term of said court, in the year of our Lord one thousand eight hundred and fifty-seven, this cause was continued.

And afterwards, to wit, on the eighteenth day of August, in the year of our Lord one thousand eight hundred and fifty-seven, being at the July stated term of said court, in said year, the following entry was made in the journal of the proceedings thereof, to wit:

CHRISTIAN A. ZABRISKIE vs. THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO., and others.	No. 201. In Chancery.

His honor, Judge Willson, declining to hear and determine this case, the same is reserved by consent of the parties, respectively, to be heard at a special term of this court, to be held at Cincinnati, in the southern district of Ohio, on the 8th day of October next; and it is hereby ordered that the clerk of this court have the papers in this case, with this journal entry, at Cincinnati, at the time above specified; and thereupon this cause was continued.

And afterwards, to wit, on the nineteenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven, the following agreed statement of facts in this case was filed in the clerk's office aforesaid, to wit:

Agreed Facts.

C. A. ZABRISKIE
vs.
THE C. C. AND C. R. R. Co. et al.

It is agreed by the parties in this case—

1. That the capital stock of this company actually paid in on

the 1st July, 1854, was $4,342,217 47, and that the number of stockholders was about nine hundred and fifty.

2. That the plaintiff was a stockholder in said company, on the 1st March, 1854, owning 552 shares, and has ever since continued a stockholder.

3. That he was represented at the annual meetings in January, 1855 and 1856, by Stillman Wit, his proxy, and in 1857, by E. S. Prosser, as his proxy. Stillman Witt was a director in 1854, '55, '56, and '57.

4. The road of this company was opened for travel and transportation in February, 1851, between Cleveland and Columbus, which are the termini of said road.

5. That the only business transacted at any meeting of the stockholders of this company in addition to the election of directors, was as follows:

Meeting of May 20, 1848; do. of Jan'y 14, 1852.
Meeting of Jan'y 12, 1853; do. of July 1, 1854.
Meeting of Jan'y 10, 1855; do. of Jan'y 9, 1856.
Meeting of Sept. 17, 1856.

6. That certified copies from the records of the board of directors or stockholders of the C. C. & C. Co. shall be admissible, subject to exceptions as to competency and relevancy.

W. S. C. OTIS,
Counsel for Complainant.
EWING & STANBERRY,
Counsel for the three Bondholders, Defts.

And on the said nineteenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven, there was filed in the clerk's office of said court certain copies from the director's journal of the Cleveland, Columbus, and Cincinnati Railroad Company, and from the stockholders' journal of the Cleveland, Columbus, and Cincinnati Railroad Company, and which said copies are in the words and figures following, to wit:

Copies from the director's journal, Cleveland, Columbus, and Cincinnati Railroad Co.

FRIDAY, *November 8th*, 1850.

Meeting of the board at the call of Mr. Payne, acting v. pres't. Present, Messrs. Payne, Case, Hilliard, Mygatt & Otis.

A communication having been received from J. H. Wade, on the subject of a telegraph line along the line of the road—

On motion of Mr. Case—

Resolved, That Mr. Hilliard be a appointed a committee of one, with power to subscribe three thousand dollars to the stock of said telegraph company, on such terms and conditions as to said committee shall seem proper to secure the rights and interests of this company.

(Signed) M. J. WILLIAMSON, *Sec'y.*

WEDNESDAY, *June 25th*, 1851.

Meeting of the board at the call of the vice president. Present, Messrs. Kelley, Woolsey, Hilliard, Mygatt & Payne.

The following preamble and resolution were, on motion, adopted:

Whereas, Messrs. Gillett, Stone, and others, have agreed to charter the steamer Alabama to run between Cleveland and Dunkirk in connection with the express trains to and from Cincinnati, which is deemed to be of great benefit to the interests of this company, therefore—

Resolved, That this company will indemnify the said charterers from any loss which may be incurred by them on said charter.

(Signed) M. J. WILLIAMSON, *Sec'y*.

WEDNESDAY, *Jan'y 14th*, 1852.

Meeting of the board at 10 o'clock a. m. at the call of acting president. Present, Messrs. Kelley, Payne, Gillett, Hilliard, Otis, Woolsey & Williams.

Mr. Payne submitted an additional stipulation to the agreement heretofore entered into with the Cleveland, Norwalk, and Toledo Railroad Company, in the words following, to wit:

"It is further agreed that the party of the first part will guarantee the payment of the interest on two hundred thousand dollars of the bonds of said second party, as described in their first mortgage of their road, and intended to be negotiated for the purchase of iron, to raise money for that purpose, on receiving such security as shall be satisfactory to the directors of said first party, subject to the approval of the stockholders as aforesaid."

Which was approved, and, on motion, ordered, that the acting president execute the same on behalf of this road, and that said agreement as modified be submitted to a vote of the stockholders this day.

On motion adjourned to 3 o'clock p. m.

Meeting at 3 o'clock p. m., pursuant to adjournment. Present, all the members of the board except Mr. Case. * *

The president presented the following certificate of the inspectors of election, viz:

We, the undersigned, judges of the election held by the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, on the 14th day of January, 1852, do hereby certify that there were 7,158 votes cast in favor of and none against the proposition to approve the agreement marked "A," and dated Oct. 9th, 1851, with the Toledo, Norwalk, and Cleveland Railroad Company, in reference to running the Cleveland, Columbus, and Cincinnati Railroad in connection with the Toledo, Norwalk, and Cleveland Railroad, and guaranteeing the payment of interest on ($200,000) two hundred thousand dollars of iron bonds of the Toledo, Norwalk,

and Cleveland Railroad Co. by the Cleveland, Columbus, and Cincinnati Railroad Co.

(Signed) ZALMON FITCH,
W. D. BEATTIE,
D. BALDWIN,
Judges of Election.

Which was ordered to be entered on the journal.

(Signed) M. J. WILLIAMSON, *Sec'y.*

MONDAY, *May* 2*d*, 1853.

Meeting of the board at the call of the acting pres't. Present, Messrs. Payne, Gillett, Hilliard, Otis, Stone, and Woolsey.

Mr. Payne presented a communication from C. S. Boalt, pres't of the Toledo, Norwalk, and Cleveland Railroad Co., with a plan for crossing Black river and connecting with the depot grounds of this company at Grafton:

Which, on motion of Mr. Otis, was approved, and the acting president was authorized to give the assent of this company in such form as may be deemed proper.

Mr. Payne also submitted a contract executed at Cincinnati on the 21st day of April last, between this company and others constituting the two railway lines between Cincinnati and Lake Erie, in relation to through business, which, on motion of Mr. Woolsey, was approved and ordered to be entered in the journal. Said contract is in the words and figures following, to wit:

This indenture, in six parts—between

1. The Cleveland, Columbus, and Cincinnati Railroad company,
2. The Columbus and Xenia Railroad company,
3. The Little Miami Railroad company,
4. The Cincinnati Hamt'n, and Dayton Railroad company,
5. The Mad River and Lake Erie Railroad company,
6. The Junction Railroad company—witnesseth:

1st. That the parties aforesaid enter into this agreement for the purpose of transporting passengers and freight (except mails) between Cincinnati and Cleveland, either by the railroads of the first three parties, or by the railroads of the last three parties, and likewise for the purpose of transporting freight and passengers between Cincinnati and Sandusky. The first three parties shall be denominated the "east line," and the second three parties shall be denominated the "west line," and the subject of this agreement shall be denominated "the through business."

2d. Accounts of the through business on each line shall be kept as herein provided. Fifty per cent. of the gross earnings of the through business of each line shall be retained by such line as an allowance for the expenses of transportation. The expenses incurred in joint account under this contract, as hereinafter provided, shall be paid from the remaining sum, and the balance divided by

appropriating sixty per cent. to the east line and forty per cent. to the west line.

3d. Unless otherwise provided for according to this agreement, the prices of transportation shall be as follows:

Between Buffalo and Cincinnati, ...				First class,	$7 50
				Second class,	5 00
				Emigrant,	3 25
Between Cincinnati and Sandusky, ...	First class,	$5 00;	boat allowance,		$2 50
	Second class,	3 50;	"		1 50
	Emigrant,	2 50;	"		75
	Local fare,	5 00.			
Between Cincinnati and Cleveland, by either line, ...	First class,	$5 50;	boat allowance,		$2 00
	Second class,	4 00;	"		1 00
	Emigrant,	2 75;	"		50
	Local fare,	6 00.			
Through freight, ...	First class,		35 c. per 100 lbs.		
	Second class,		25 " "		
	" reduced,		22 " "		

Meals and state-rooms on the boats shall be charged extra, unless modified by the superintendents.

4th. It is the intention of the parties that the prices of transportation of the through business shall be the same by either line between Cleveland and Cincinnati, and likewise between Cincinnati and any point east of Cleveland; and all the privileges for the interchange of business granted by the Cleveland and Erie Railroad to the east line, or to passengers or freight to and from any point on the east line, shall be extended to the business of the west line, and to corresponding points upon it.

5th. The prices of transportation of freight between Cincinnati and Sandusky, and between Cincinnati and Cleveland, upon either line, shall be the same.

6th. Neither party shall form with any other company a connected line for through business between the Ohio, at or near Cincinnati, and Lake Erie, which in the opinion of any other party shall constitute a competing route, without the consent in writing of such party, nor shall local rates be reduced in favor of such competing route below the average tariff of local rates of the line with which such company is connected; and the local rates of any party upon either line for the transportation of passengers shall exceed by at least five per cent. the average ratio of prices for similar service in the through business.

7th. Each line shall be represented by two superintendents, one for the northern section and one for the southern section thereof. The four superintendents shall have the power to appoint such

additional agents as shall be necessary to carry this agreement into execution; to prescribe the manner and form of keeping, rendering, and adjusting the accounts between the lines; to regulate the prices of transportation in joint account, in accordance with the spirit of this agreement; and to take any other measures necessary to carry the same into effect.

If the superintendents shall deem it expedient, they may take the necessary measures to apportion the freight between the two lines, by the adjustment of freight or otherwise.

In all questions before them, each line shall be entitled to an equal vote; and in cases of disagreement, the matter in difference shall be submitted to the presidents of the several parties, and, when necessary, may by them be submitted to referees. All persons employed by the superintendents shall be instructed to conduct themselves with entire impartiality towards either line, so as to express no preference for either; and all bills and advertisements published by the superintendents, or by either party, shall equally present the opportunities and advantages of both without any preference.

8th. On the first day of February, 1855, and at the expiration of any year thereafter, either party, on three months' previous notice in writing to the president of each party, may demand a reconsideration of the basis for the division of the earnings; and if the parties shall be unable to agree, the same shall be referred to two referees, one to be chosen by the presidents of the companies composing each line, which referees shall, if necessary, choose an umpire; the decision of a majority of such referees shall be binding upon the parties until such decision shall be altered in accordance with this agreement.

9th. This agreement shall take effect at any time after the first of June next, on ten days' notice by the superintendents that the boats in connection with the west line will commence their regular trips; and until the Junction railroad is in operation between Cleveland and Sandusky, it shall be lawful for the parties to maintain their through business upon the Norwalk and Toledo railroad.

10th. After ten years from June 1st, 1853, it shall be competent to any party to terminate this agreement upon twelve months' notice in writing to each party.

11th. Neither line shall be responsible for the operations on the other, in case of losses of goods or damages or on contracts.

In witness whereof, the parties aforesaid, by their respective presidents and representatives, have set their names on this 21st day of April, A. D. 1853.

THE CLEVELAND, COLUMBUS,
AND CINCINNATI RAILROAD CO.,
By H. B. PAYNE, *Acting Pres't.*
THE COLUMBUS AND XENIA R. R'D CO.,
By ROBERT NEIL, *Pres't.*
W. B. HUBBARS,
W. DENNISON, Jr.,
Committee.

THE LITTLE MIAMI RAILROAD CO.,
By JACOB STRADER, *Prest.*
JOHN KILGORE, *Secy.*
THE CINCINNATI, HAMILMON, AND
DAYTON R. R'D CO.,
By S. S. L. HOMMEDIEU, *Prest.*
J. C. WRIGHT,
HENRY O. AMES,
Committee.
THE JUNCTION RAILROAD CO.,
By E. LANE, *Pres't.*
THE MAD RIVER AND LAKE ERIE R. R'D CO.,
By E. LANE, *Pres't.*
E. F. OSBORN, *Sup't.*

Adjourned.

(Signed) M. J. WILLIAMSON, *Sec'y.*

MONDAY, *June* 13*th*, 1853.

Meeting of the board at the call of the president. Present, Messrs. Payne, Case, Hilliard, Otis, Stone, and Woolsey. * * *

Mr. Stone communicated the result of negotiations between the New York Central and New York and Erie Railroad lines, in relation to the purchase and ownership of the two new steamboats now being built by the N. and E. Co. to run between Buffalo and Cleveland.

And on motion of Mr. Woolsey,

Resolved, That the subject matter of such communication be referred to the president and superintendent, with power to confer with the R. R'd companies connected with this road, and to conclude a contract for said boats in behalf of this company. Adjourned.

(Signed) M. J. WILLIAMSON, *Sec'y.*

TUESDAY, *January* 31*st*, 1854.

Meeting of the board at the call of the president. Present, Messrs. Payne, Case, Gillett, Hilliard, Woolsey, and Williams.

The president laid before the board a communication from J. H. Godman, pres't of the Bellefontaine and Indiana R. R. Co., requesting the endorsement of this Co. in two hundred thousand dollars ($200,000) income bonds of said company, to be secured by a deposit of stock of said company in twice the amount of said bonds, and, on motion,

Ordered, That the president be authorized to endorse said bonds, on receiving security to the satisfaction of the finance committee. * * *

(Signed) M. J. WILLIAMSON, *Sec'y.*

FRIDAY, *Sept.* 21*st*, 1855.

Meeting of the board. Present, Messrs. Stone, Case, Williamson, Prasser, Witt, and Hubby. * * *

additional agents as shall be necessary to carry this agreement into execution; to prescribe the manner and form of keeping, rendering, and adjusting the accounts between the lines; to regulate the prices of transportation in joint account, in accordance with the spirit of this agreement; and to take any other measures necessary to carry the same into effect.

If the superintendents shall deem it expedient, they may take the necessary measures to apportion the freight between the two lines, by the adjustment of freight or otherwise.

In all questions before them, each line shall be entitled to an equal vote; and in cases of disagreement, the matter in difference shall be submitted to the presidents of the several parties, and, when necessary, may by them be submitted to referees. All persons employed by the superintendents shall be instructed to conduct themselves with entire impartiality towards either line, so as to express no preference for either; and all bills and advertisements published by the superintendents, or by either party, shall equally present the opportunities and advantages of both without any preference.

8th. On the first day of February, 1855, and at the expiration of any year thereafter, either party, on three months' previous notice in writing to the president of each party, may demand a reconsideration of the basis for the division of the earnings; and if the parties shall be unable to agree, the same shall be referred to two referees, one to be chosen by the presidents of the companies composing each line, which referees shall, if necessary, choose an umpire; the decision of a majority of such referees shall be binding upon the parties until such decision shall be altered in accordance with this agreement.

9th. This agreement shall take effect at any time after the first of June next, on ten days' notice by the superintendents that the boats in connection with the west line will commence their regular trips; and until the Junction railroad is in operation between Cleveland and Sandusky, it shall be lawful for the parties to maintain their through business upon the Norwalk and Toledo railroad.

10th. After ten years from June 1st, 1853, it shall be competent to any party to terminate this agreement upon twelve months' notice in writing to each party.

11th. Neither line shall be responsible for the operations on the other, in case of losses of goods or damages or on contracts.

In witness whereof, the parties aforesaid, by their respective presidents and representatives, have set their names on this 21st day of April, A. D. 1853.

THE CLEVELAND, COLUMBUS,
AND CINCINNATI RAILROAD CO.,
By H. B. PAYNE, *Acting Pres't.*
THE COLUMBUS AND XENIA R. R'D CO.,
By ROBERT NEIL, *Pres't.*
W. B. HUBBARS,
W. DENNISON, Jr.,
Committee.

THE LITTLE MIAMI RAILROAD CO.,
By JACOB STRADER, *Prest.*
JOHN KILGORE, *Secy.*
THE CINCINNATI, HAMILMON, AND
DAYTON R. R'D CO.,
By S. S. L. HOMMEDIEU, *Prest.*
J. C. WRIGHT,
HENRY O. AMES,
Committee.
THE JUNCTION RAILROAD CO.,
By E. LANE, *Pres't.*
THE MAD RIVER AND LAKE ERIE R. R'D CO.,
By E. LANE, *Pres't.*
E. F. OSBORN, *Sup't.*

Adjourned.

(Signed) M. J. WILLIAMSON, *Sec'y.*

MONDAY, *June* 13*th*, 1853.

Meeting of the board at the call of the president. Present, Messrs. Payne, Case, Hilliard, Otis, Stone, and Woolsey. * * *

Mr. Stone communicated the result of negotiations between the New York Central and New York and Erie Railroad lines, in relation to the purchase and ownership of the two new steamboats now being built by the N. and E. Co. to run between Buffalo and Cleveland.

And on motion of Mr. Woolsey,

Resolved, That the subject matter of such communication be referred to the president and superintendent, with power to confer with the R. R'd companies connected with this road, and to conclude a contract for said boats in behalf of this company. Adjourned.

(Signed) M. J. WILLIAMSON, *Sec'y.*

TUESDAY, *January* 31*st*, 1854.

Meeting of the board at the call of the president. Present, Messrs. Payne, Case, Gillett, Hilliard, Woolsey, and Williams.

The president laid before the board a communication from J. H. Godman, pres't of the Bellefontaine and Indiana R. R. Co., requesting the endorsement of this Co. in two hundred thousand dollars ($200,000) income bonds of said company, to be secured by a deposit of stock of said company in twice the amount of said bonds, and, on motion,

Ordered, That the president be authorized to endorse said bonds, on receiving security to the satisfaction of the finance committee. * * *

(Signed) M. J. WILLIAMSON, *Sec'y.*

FRIDAY, *Sept.* 21*st*, 1855.

Meeting of the board. Present, Messrs. Stone, Case, Williamson, Prasser, Witt, and Hubby. * * *

additional agents as shall be necessary to carry this agreement into execution; to prescribe the manner and form of keeping, rendering, and adjusting the accounts between the lines; to regulate the prices of transportation in joint account, in accordance with the spirit of this agreement; and to take any other measures necessary to carry the same into effect.

If the superintendents shall deem it expedient, they may take the necessary measures to apportion the freight between the two lines, by the adjustment of freight or otherwise.

In all questions before them, each line shall be entitled to an equal vote; and in cases of disagreement, the matter in difference shall be submitted to the presidents of the several parties, and, when necessary, may by them be submitted to referees. All persons employed by the superintendents shall be instructed to conduct themselves with entire impartiality towards either line, so as to express no preference for either; and all bills and advertisements published by the superintendents, or by either party, shall equally present the opportunities and advantages of both without any preference.

8th. On the first day of February, 1855, and at the expiration of any year thereafter, either party, on three months' previous notice in writing to the president of each party, may demand a reconsideration of the basis for the division of the earnings; and if the parties shall be unable to agree, the same shall be referred to two referees, one to be chosen by the presidents of the companies composing each line, which referees shall, if necessary, choose an umpire; the decision of a majority of such referees shall be binding upon the parties until such decision shall be altered in accordance with this agreement.

9th. This agreement shall take effect at any time after the first of June next, on ten days' notice by the superintendents that the boats in connection with the west line will commence their regular trips; and until the Junction railroad is in operation between Cleveland and Sandusky, it shall be lawful for the parties to maintain their through business upon the Norwalk and Toledo railroad.

10th. After ten years from June 1st, 1853, it shall be competent to any party to terminate this agreement upon twelve months' notice in writing to each party.

11th. Neither line shall be responsible for the operations on the other, in case of losses of goods or damages or on contracts.

In witness whereof, the parties aforesaid, by their respective presidents and representatives, have set their names on this 21st day of April, A. D. 1853.

THE CLEVELAND, COLUMBUS,
AND CINCINNATI RAILROAD CO.,
By H. B. PAYNE, *Acting Pres't.*
THE COLUMBUS AND XENIA R. R'D CO.,
By ROBERT NEIL, *Pres't.*
W. B. HUBBARS,
W. DENNISON, Jr.,
Committee.

THE LITTLE MIAMI RAILROAD CO.,
By JACOB STRADER, *Prest.*
JOHN KILGORE, *Secy.*
THE CINCINNATI, HAMILMON, AND
DAYTON R. R'D CO.,
By S. S. L. HOMMEDIEU, *Prest.*
J. C. WRIGHT,
HENRY O. AMES,
Committee.
THE JUNCTION RAILROAD CO.,
By E. LANE, *Pres't.*
THE MAD RIVER AND LAKE ERIE R. R'D CO.,
By E. LANE, *Pres't.*
E. F. OSBORN, *Sup't.*

Adjourned.

(Signed) M. J. WILLIAMSON, *Sec'y.*

MONDAY, *June* 13*th*, 1853.

Meeting of the board at the call of the president. Present, Messrs. Payne, Case, Hilliard, Otis, Stone, and Woolsey. * * *

Mr. Stone communicated the result of negotiations between the New York Central and New York and Erie Railroad lines, in relation to the purchase and ownership of the two new steamboats now being built by the N. and E. Co. to run between Buffalo and Cleveland.

And on motion of Mr. Woolsey,

Resolved, That the subject matter of such communication be referred to the president and superintendent, with power to confer with the R. R'd companies connected with this road, and to conclude a contract for said boats in behalf of this company. Adjourned.

(Signed) M. J. WILLIAMSON, *Sec'y.*

TUESDAY, *January* 31*st*, 1854.

Meeting of the board at the call of the president. Present, Messrs. Payne, Case, Gillett, Hilliard, Woolsey, and Williams.

The president laid before the board a communication from J. H. Godman, pres't of the Bellefontaine and Indiana R. R. Co., requesting the endorsement of this Co. in two hundred thousand dollars ($200,000) income bonds of said company, to be secured by a deposit of stock of said company in twice the amount of said bonds, and, on motion,

Ordered, That the president be authorized to endorse said bonds, on receiving security to the satisfaction of the finance committee. * * *

(Signed) M. J. WILLIAMSON, *Sec'y.*

FRIDAY, *Sept.* 21*st*, 1855.

Meeting of the board. Present, Messrs. Stone, Case, Williamson, Prasser, Witt, and Hubby. * * *

On motion of S. Witt,

Resolved, That Messrs. Kelley, Williamson, and Hubby be a committee to meet the Columbus, Piqua, and Indiana Railroad Company at Columbus, on the 26th inst., to consult and devise ways and means for the payment of interest on their bonds endorsed by this company, and report the same to this board.

Adopted unanimously. * * * Adjourned to 8 a. m. 22d inst.

SATURDAY, *Sept. 22d*, 1855.

Meeting of the board agreeable to adjournment. Present, Messrs. Kelley, Scott, Williamson, Stone, Witt, Prosser, and Hubby.

By the President:

Whereas on the completion of the Fort Wayne and Chicago railroad, now in process of construction, a continuous line of railway of one uniform guage will be formed between the cities of Cleveland and Chicago, consisting of the Cleveland, Columbus, and Cincinnati railroad, between Cleveland and Crestline, the Ohio and Indiana railroad, between Crestline and Fort Wayne, and the Fort Wayne and Chicago railroad, between Fort Wayne and Chicago; and it being desired and considered that the interest of each and all the above-named Railroad Co's will be greatly promoted by the forming of close running connections, so that the cars and engines of each company may pass into and run over the roads of all the other companies, thereby facilitating the transportation of persons and property, by avoiding the expense and delay incident upon the transferring the same from the cars of one co. to those of the other, at all points where the respective roads connect; and whereas it being of great interest to all the above-named companies that said line of railway should be opened and put into operation at the earliest possible time, and whereas the said Ohio and Indiana, and Fort Wayne and Chicago Railroad Companies represent that it will be inconvenient at present for them to provide in time for the *contemplated* of the said through line of road about the first of Sept. next, their full quota of rolling stock—therefore, be it—

Resolved, That in order that there should be no delay in putting such line of railroad into operation, the Cleveland, Columbus, and Cincinnati Railroad Company will, with the assent of the stockholders, furnish such an amount of rolling stock, consisting of locomotives and cars, as may be required to do the business of said connected line of railway not exceeding in amount four hundred and fifty thousand dollars over and above its own pro rata proportion of rolling stock—the Ohio and Indiana and Fort Wayne and Chicago Railroad Companies agreeing to furnish the balance of stock necessary to the full equipment of their respective roads, and agreeing to pay to the Cleveland, Columbus, and Cincinnati Railroad, as a compensation for the use of said excess of rolling stock it may have furnished, a sum equal to ten per cent. per annum on its cost, and further agreeing to purchase of

the said Cleveland, Columbus, and Cincinnati Railroad Company, at or before the expiration of the term of five years, said excess of rolling stock it may have furnished at its cash value.

And be it further resolved, That Messrs. Williamson, Scott & Hubby be a committee authorized to adopt such measures and do such acts as may be necessary to carry into effect the provisions of the above resolution. Adopted unanimously. * * *

(Signed) H. C. MARSHALL, *Sec'y.*

OFFICE OF THE CLEVELAND, COLUMBUS, AND CINCINNATI R. R'D CO.,
Cleveland, July 30th, 1857.

I hereby certify that the foregoing are true copies from the "director's journal" of this company.

GEO. H. RUSSELL, *Sec'y.*

OFFICE OF THE CLEVELAND, COLUMBUS, AND CINCINNATI R. R'D CO.,
Monday, March 6th, 1854.

Meeting of the board at the call of the president. Present, Messrs. Payne, Case, Gillett, Stone, Witt, and Williams.

The president laid before the board a certified copy of preamble and resolutions adopted by the board of directors of the Atlantic and Ohio Railroad Co., under date of March 1st, 1854, relating to the guage of the road of that company, and its connection with the road of this company at Columbus; which was read and ordered to be entered on the journal, and which is as follows:

Whereas the permanent interests of the Atlantic and Ohio Railroad Company will be promoted by the immediate establishment of the guage of its road from Columbus south, at four feet and ten inches, or the "Ohio guage" as frequently styled, which guage will enable the company to form valuable business connections at Columbus with the Cleveland, Columbus, and Cincinnati road, and other roads terminating at that point, and whereas the determining now such guage will aid in inviting additional subscriptions to be made to the capital stock of the company; therefore—

Resolved, That the guage of the Atlantic and Ohio Railroad from Columbus south be, and the same is hereby, permanently fixed at four feet and ten inches, or the "Ohio guage," as said width of track is frequently called, and the good faith of this company is hereby pledged to every person who now holds or may hold stock therein, or who may be in any way interested in this company, that the guage of its road from Columbus south shall be permanently maintained at said four feet and ten inches, or Ohio guage, as aforesaid.

Resolved, That this company are anxious to form such a connection of its road with the Cleveland, Columbus, and Cincinnati Railroad, on the depot grounds of the latter at Columbus, as will be

sufficient and convenient for the transfer of freight from the cars of the one to the other company without the delay or expense of drayage or cartage; and that the good faith of this company is hereby pledged to the Cleveland, Columbus, and Cincinnati Railroad Company, that it will, at any time, unite with that company in establishing such a connection; and—

Resolved, further, That a committee of two, to consist of Messrs. Neil & Dennison, be and they are hereby appointed to meet a like committeee of the Cleveland, Columbus, and Cincinnati Railroad Company, and in behalf of this company, to enter into a permanent contract with that company for forming a connection as aforesaid between the roads of the two companies on the depot grounds of the Cleveland, Columbus, and Cincinnati Company at Columbus, the board hereby ratifying whatever said commitee may do in the premises.

Resolved, also, That a committee of three (Messrs. Neil, Perry, and Dennison) be and they are hereby authorized to enter into a contract with said Cleveland, Columbus, and Cincinnati Railroad Company, for a permanent running and business arrangement between the two companies, upon such terms as said committee may deem reasonable and fair.

" The foregoing is a correct copy of the resolutions adopted by the board of directors of Atlantic and Ohio Railroad Company, at their meeting holden the evening of March 1st, 1854.

" A. F. PERRY,
Secretary of A. & O. R. R."

Thereupon it was

Resolved, That in consideration of the action of said Atlantic and Ohio Railroad Company establishing the guage of its road permanently at four feet and ten inches, the president of this company, with the approval of the finance committee, be authorized to enter into a contract with said Atlantic and Ohio Railroad Company for the connection of the tracks of the two roads at Columbus, and also for permanent business connections between the two companies, on such terms as they may deem reasonable and proper.

Piqua.

The president also submitted a copy of preamble and resolution adopted by the board of directors of the Columbus, Piqua, and Indiana Railroad Company, under date of March 3d, 1854, in relation to the change of guage of the road of the Indianapolis and Bellefontaine Railroad Company, and also of the road of said Columbus, Piqua, and Indiana Railroad Company, which was read, and ordered to be placed on file, and entered at large on the journal, and which is as follows :

Extract from the minutes.

"Whereas David Alexander and Solomon G. Bucourt, committee and authorized agents of the Columbus, Piqua, and Indiana Railroad Company, duly appointed by resolution of the board of directors of said company, passed and entered upon the journal of the proceedings of their meeting held on the 17th January, 1854, did, in pursuance of the powers conferred on them by contract in writing, dated February 25, 1854, agree to sell and did sell to William Neil and William Dennison, jr., for a valuable consideration therein named, six hundred of the third mortgage bonds of this company, with proper interest warrants or coupons attached, to be delivered to said Neil and Dennison, or their authorized agent, on or before the first day of April next, each of said bonds to be for one thousand dollars, in all six hundred thousand dollars, payable in not less than ten, nor more than twenty years after the date thereof, as said Neil and Dennison may direct, to bear interest at the rate of seven per centum per annum, payable semi-annually on the first days of April and October of each and every year, interest and principal of the bonds to be made payable at the Ohio Life Insurance and Trust Company bank in the city of New York, and the payment thereof to be secured by a deed of trust or mortgage to be executed by this company to Elias Fassett, of the city of New York, the covenants and stipulations of which shall be such as are contained in the two deeds of trust on mortgages heretofore executed by this company to secure the payment of the principal and interest of six hundred first mortgage and four hundred second mortgage bonds made by it, with the understanding expressed, that the deed of trust or mortgage to be executed as aforesaid to said Elias Fassett shall embrace all and singular the property, rights, privileges, and franchises of this company to the same extent as are embraced by each of the two deeds of trust or mortgages heretofore executed as aforesaid, and the pledge of the good faith of this company to said Neil and Dennison, and to each and every person who shall become the holder, or be in any way interested in any of said bonds so sold to said Neil and Dennison; that it will not, at any time prior to the maturity and payment of the principal and interest of said bonds, according to the tenor thereof, issue or permit to be issued any additional third mortgage bonds, and that said bonds shall contain a clause or stipulation authorizing the holder thereof to convert the same at any time before maturity into the stock of said company at its par value; and whereas said committee, by the terms of said contract with said Neil and Dennison, among other things did expressly agree for this company to confer or did confer on them the full and exclusive power and privilege of adjusting all existing controversies and differences between this company and the president and directors of the Indianapolis and Bellefontaine Railroad Company, of negotiating and concluding

with said Indianapolis and Bellefontaine Company all matters in any way relating to a permanently fixing the guage of its railroad, and did agree that this company would fully and promptly ratify and confirm any and all agreements which they, the said Neil and Dennison, may make with said Indianapolis and Bellefontaine Company in relation thereto, as well as to promptly ratify any and all contracts and agreements said Neil and Dennison, or either of them, may make with that company that may provide for or contemplate the modifying or rescinding any and all contracts now subsisting between the two companies; provided they shall obtain and deliver, or cause to be delivered to the president of this company the written consent of the directors of said Indianapolis and Bellefontaine Company to enter into a permanent contract with this company, when requested by it, for a running or business arrangement between the two companies, which shall secure the passengers and freight that may pass to or from this company's railroad over the road or any part thereof of said Indianapolis and Bellefontaine Company, from any and all discrimination as to fare or tariff, in favor of any other railroad, and particularly of the Bellefontaine and Indiana railroad, and shall provide for the through transport of freight over the roads of the two companies, this and the Indianapolis and Bellefontaine, upon reasonable and reciprocal terms, without being required to be transhipped at Union, and shall also provide for the through ticketing of passengers over said roads upon equitable terms; and whereas said committee, by the terms of said contract with said Neil and Dennison, did expressly stipulate, on behalf of this company, that it would lay or cause to be laid and permanently maintain the track of its railroad from Urbana to Union of such width or guage as they, the said Neil and Dennison, shall, within ninety days from the date of said contract, verbally or in writing, require; and in case they require said track to be laid of the width of four feet and ten inches, this company will, within ninety days after the road between Urbana and Union shall be in operative condition, commence and vigorously prosecute to completion the relaying of its track from Urbana to Columbus of a like width or guage, and that this company, whenever required by the president of the Central Ohio Railroad Company, will enter into a running or business arrangement with that company, the terms of which shall correspond with those contained in the contract for like purposes between said Central Ohio and the Columbus and Xenia Railroad Company; therefore,

"*Resolved*, That the Columbus, Piqua, and Indiana Railroad Company does hereby approve and ratify said contract entered into and concluded as aforesaid between David Alexander and Solomon G. Brecount, committee and authorized agents of this company, and William Neil and William Dennison, jr.

"*Ordered*, That two copies of the foregoing preamble and reso-

lution be prepared and certified to by the secretary, and delivered to said Neil and Dennison; also,

"*Ordered*, That said contract be copied in extenso upon the journal of the proceedings of this board."

"OFFICE OF THE C. P. & I. R. R. Co.,
Piqua, March 6th, 1854.

"I certify the above and foregoing to be a true copy from the records, as appears under the date of March 3d, 1854. Witness my hand and the corporate seal of said company the day and year above written.

[SEAL.]

JAS. M. EWING, *Sec'y.*"

And thereupon it was

Resolved, That the president be authorized to act jointly with the presidents of the Indianapolis and Bellefontaine, and Bellefontaine and Indiana Railroad Companies, in purchasing thirty thousand dollars of the capital stock of said Columbus, Piqua, and Indiana Railroad Company, and in endorsing, jointly or severally, four hundred thousand dollars of the third class mortgage convertible bonds of said C. P. and Ia. Company, as described in said preamble and resolutions.

Also, resolved, That the president, with the approval of the committee, be authorized to enter into a contract with the Bellefontaine and Indiana Railroad Company, and the Indianapolis and Bellefontaine Railroad Company for a more intimate and permanent connection with said companies, and maintaining a through line between Cleveland and Indianapolis.

On motion of Mr. Stone—

Resolved, That in the opinion of this board it is desirable to make a connected line of railroad between Cleveland and Chicago by way of the road of this company, the road of the Ohio and Indiana Company, and the road of the Fort Wayne and Chicago Company, the guage thereof to be fixed and permanently maintained at four feet ten inches.

Resolved, That the president, with the advice of the finance committee, be authorized to enter into a contract with said Ohio and Indiana, and Fort Wayne and Chicago R. R. Companies, providing for insuring a connected line of railroad as aforesaid, to be of the uniform guage of four feet ten inches, and containing suitable provisions for running through freight and passenger trains in close connection with trains on the Lake Shore Road east of Cleveland; and if deemed necessary in order to carry out the object of this resolution, said finance committee be authorized to purchase four hundred thousand dollars of the second mortgage convertible bonds of said Ohio and Indiana R. Road Company at a price not exceeding seventy-five cents on the dollar, provided stock in said company to the amount of said bonds be issued in the name of this company,

to be held for the redemption of said bonds, under such restrictions as may be agreed upon by said companies. Adjourned.

M. J. WILLIAMSON, *Sec'y.*

TUESDAY, *June* 16*th*, 1854.

Meeting pursuant to adjournment. Present, same members as yesterday, except Mr. Prasser.

On motion, the president was added to the com. on the application of the Ohio and I'a, and Fort Wayne and Chicago Railroad Companies.

On motion, ordered, that this company will assume one-half of the subscription of one hundred thousand dollars to the capital stock of the Mississippi and Atlantic Railroad company, provided the Cleveland, Painesville, and Ashtabula Railroad Company assume the remaining one-half.

On motion—

Resolved, That the following propositions to aid other roads desiring to form a connection with the road of this company, be severally submitted to a vote of the stockholders of this company, to be held at the office of the company in Cleveland, on the first day of July next, at 10 o'clock a. m., under the 4th section of an act of the General Assembly of the State of Ohio, passed March 3d, 1851:

1st. The endorsement of two hundred thousand dollars of the income bonds of the Bellefontaine and Indiana Railroad Company, by virtue of the order of the board, dated January 31st, 1854.

2d. The endorsement jointly or severally with the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies of four hundred thousand dollars of the third motgage bonds of the Columbus, Piqua, and Indiana Railroad Company, under the order of the board, dated March 6th, 1854.

3d. The subscription of fifty thousand dollars to the capital stock of the Mississippi and Atlantic Railroad Company, under the order of the board of this date.

4th. The assumption by the company of the stock subscribed and held in the name of individuals, but paid for with the money of the company, in the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies.

Ordered, That the secretary publish notice of the time and place of such meeting in two of the daily papers in Cleveland, in the New York Daily Times, and in some paper at Columbus, and at Delaware.

The president submitted to the board a communication from Cha's W. Olcott and others, in relation to dividends, &c., which was read, and ordered to be placed on file.

On motion—

Resolved, That the expenses of non-resident directors in attending the meetings of the board be audited, and paid out of money in the treasury. Adjourned.

M. J. WILLIAMSON, *Sec'y.*

WEDNESDAY, *June 13th*, 1855.

Meeting of the board of directors.

Extract from the minutes.

A communication was laid before the board from L. Donaldson, chairman of the fire department of Columbus, asking contribution from this company to assist in purchasing a steam-fire engine. Ordered, that ($100) one hundred dollars be contributed.

H. C. MARSHALL, *Sec'y.*

FRIDAY, *Oct. 28th*, 1855.

Meeting of the board. Present, Messrs. Stone, Case, Hubby, Williamson, and Hilliard.

The following report of the committee appointed to meet the stockholders of the Columbus, Piqua, and Indiana Railroad Company was accepted, and ordered placed on file.

Report.

To the directors of the C. C. and C. R. Rd. Co.:

Your committee appointed to meet the stockholders of the Columbus, Piqua, and Indiana Railroad Company beg leave to report the following abstract from the report of the president of that company:

Liabilities.

1st mortgage bonds, due in 1862		$600,000
2d do. do. " " 1863		400,000
3d do. do. " " 1869		600,000
Domestic bonds " " 1858		132,000
Real estate bonds		81,000
Capital stock paid in		771,450
Floating debt		87,538
Interest due Oct. 1st		21,000
Do. do. July 1st		35,000
Total liabilities		$2,727,988
Required to complete the road 24 miles at price contracted	$144,000	
Transp. ties, spike, labor, &c	47,840	
		191,840
		$2,919,828

Assets.

150,988 dollars Cambra Iron Co. bonds, estimated good for	$84,000	
Stock subscriptions uncollected	10,000	
Real estate bonds unsold	22,600	
		116,600

This may be considered as doubtful.

Equipment.

5 locomotives.
8 passenger cars.
100 cars of all descriptions, or about that.

The president's report makes the number 186, but subsequent explanations cut the amount down to about 110, including gravel, platform, and box cars.

There is 74 miles track laid and 72 miles being run between Columbus and Piqua. The gross earnings per month are about $5,000 to $6,000, about all of which is required to pay expenses.

The Cambra iron bonds are now pledged to secure the payment of $35,000 borrowed to pay interest due July 1st. They have no assets out of which to pay the interest falling due Oct. 1st on the bonds endorsed by your company, but propose to make a further pledge of these Cambra bonds to your company or to any other party that will furnish the money.

The president and directors express but little hope of being able to complete the road or pay the interest on the bonds issued.

By L. M. Hubby:

Whereas it appearing from the report of our committee that the Columbus, Piqua and Indiana Railroad Company will be unable to pay the interest on $400,000 of their 3d mortgage bonds falling due Oct. 1st, on which this company are joint endorsers with the Indianapolis and Bellefontaine Rail Road Company and the Bellefontaine and Indiana Railroad Company, therefore be it

Resolved, That the President be and is hereby directed to pay this company's proportion of the interest on $400,000 bonds of the Columbus, Piqua and Indiana Railroad company, endorsed by this company and falling due at the office of the Ohio Life Insurance and Trust Company in New York Oct. 1st, 1855, and aid the Indianapolis and Bellefontaine Railroad Company in the payment of their proportion of the interest—and that the president be authorized to take such measures as he may deem advisable to secure the payment thus made.

(Signed) H. C. MARSHALL, *Sec'y.*

OFFICE OF THE CLEVELAND, COLUMBUS,
AND CINCINNATI R. R'D CO.,

Cleveland, July 27th, 1857.

I hereby certify the foregoing to be true copies of the proceedings of the president and directors of this company, as taken from the journal under the dates named.

GEO. H. RUSSELL, *Sec'y.*

WEDNESDAY, *Oct. 29th*,, 1856.

Meeting of the board. Present Messrs. Hilliard, Williamson, Scott, Stone, Witt, and Hubby.

On motion of Mr. Stone it was—

Resolved, That the president be authorized to subscribe five thousand dollars to the capital stock of the Cleveland, Medina, and Tuscarawas Railroad Company, and pay the same whenever that company return to this company one hundred thousand dollars in their bonds the interest on which this company have guaranteed, and to execute a receipt therefor in conformity with the resolution of the stockholders passed the 9th of January, 1856. Adopted.

(Signed) H. C. MARSHALL, *Sect'ry.*

WEDNESDAY, *January* 14*th*, 1857.

New board organized. The following members present and qualified: Messrs. Williams, Scott, Williamson, Miller, Dows, Prosser, Stone, and Hubby. * * *

By Mr. Prosser—

Resolved, That the president be and is hereby authorized and requested to erase the endorsement of this company from the bonds of the Cleveland, Medina, and Tuscarawas Railroad Company now in his possession viz: 100 bonds of $1,000 each. Adopted. * *

(Signed,) GEO. H. RUSSELL, *Sect'ry.*

THURSDAY, *August* 13*th*, 1857.

Meeting of the board of directors. Present Messrs. Stone, Williams, Williamson, Scott, Witt, and Hubby. * * *

The following resolutions were offered and passed unanimously:

Resolved, That as at present advised as to our legal liabilities, it is inexpedient to make any further investment in the securities of the Mississippi and Atlantic Railroad Company.

(Signed,) GEO. H. RUSSELL, *Sect'ry.*

OFFICE OF THE CLEVELAND, COLUMBUS,
AND CINCINNATI R. R'D CO.,

CLEVELAND, *Sept.* 18*th*, 1857.

I hereby certify that the foregoing are true copies from the journal of the directors of this company under the dates named.

H. RUSSELL, *Sect'ry.*

Copies from the Stockholders' Journal.

Poll book of a meeting of stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, convened at the principal office of the company in Cleveland, at 10 o'clock, a. m., on the 20th day of May, 1848, called in pursuance of a vote of the board of directors of said company, convened at their office on the 1st day of May instant, of which due notice was published in the Cleveland Herald and Cleveland Plaindealer, a copy of which is hereunto attached. *

The said meeting having been duly opened, the following resolution was offered, viz:

Resolved, That the following sections of "An act regulating railroad companies" be and the same is hereby adopted and accepted as a part of the charter of the Cleveland, Columbus, and Cincinnati Railroad Company, viz: *

Resolved, further, That the following act of the Legislature be and the same is hereby accepted as part of the charter of said company. *

And the question being shall the said resolution be adopted and passed—the stockholders appearing either in person or by legal proxy, at said meeting, voted according to their respective number of shares as stated below:

(Here follow the names of stockholders and number of votes cast.)

"We the subscribers having been appointed inspectors to inspect the proceedings of a meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, held at their office in Cleveland, on the 20th day of May instant, for the purpose of determining what portion of an act regulating railroad companies should be accepted and adopted as part of the charter of said company, and of transacting such other business as might be brought before said meeting, do certify that all the business which was brought before said meeting is contained in the resolutions attached to the poll book herewith returned. That said poll book truly states the whole number of votes given by the stockholders voting, which number of votes given is five hundred and four, all of which were given for the passage and adoption of said resolutions, and which said resolutions were unanimously passed and adopted.

(Signed,) ZALMON FITCH, N. E. CRITTENDEN, DUDLY BALDWIN," } *Inspectors.*

*For sections adopted, &c., see "minutes and original poll book on file."

"We the undersigned, appointed judges to superintend the election of directors for the Cleveland, Columbus, and Cincinnati Railroad Company for the year 1852, having convened at the office of said company in Cleveland, and having received and counted the votes given by the stockholders, do find that the persons below named received the number of votes set opposite their names, and being a majority of all the votes given, do declare that they are elected directors for said company for the year 1852:

Alfred Kelley.....9724
Henry B. Payne.....9724
John M. Woolsey.....9689
Richard Hilliard.....9724
Jonathan Gillett.....9724

Wm. A. Otis.....8456
Leonard Case.....9083
Hosea Williams.....9724
Amasa Stone, jr.....9724

CLEVELAND, *January* 14*th*, 1852.

ZALMON FITCH,
W. D. BEATTIE,
DUDLEY BALDWIN, } *Judges of Election.*"

THE STATE OF OHIO,
Cuyahoga county, ss:

CLEVELAND, *January* 14*th*, 1852.

Personally appeared Alfred Kelley, Henry B. Payne, Jonathan Gillett, Richard Hilliard, Leonard Case, John M. Woolsey, W. A. Otis, Hosea Williams, Amasa Stone, jr., and were severally sworn faithfully to perform the duties of directors of the Cleveland, Columbus and Cincinnati Railroad Company. Before me,

E. HESSENMUELLER,
Justice of the Peace.

"We, the undersigned, judges of the election held by the stockholders of the Cleveland, Columbus and Cincinnati Railroad Company, on the 14th day of January, 1852, do hereby that there were 7,158 votes cast in favor of and none against the proposition to approve the agreement marked "A," and dated October 9, 1851, with the Toledo, Norwalk and Cleveland Railroad Company, in reference to running the Cleveland, Columbus, and Cincinnati railroad in connection with the Toledo, Norwalk, and Cleveland railroad, and guaranteeing the payment of interest on ($200,000) two hundred thousand dollars of iron bonds of the Toledo, Norwalk, and Cleveland Railroad Co. by the Cleveland, Columbus, and Cincinnati Railroad Company.

ZALMON FITCH,
W. D. BEATTIE,
D. BALDWIN,
Judges of Election."

CLEVELAND, *Jan'y* 14*th*, 1852.

At a meeting of the stockholders of this company this day convened, at the office of the company, in Cleveland, (Alfred Kelley, pres't, in the chair,) the following preamble and resolutions offered by S. Witt, esq., were unanimously adopted:

Whereas the gentlemen who have been members of the board of directors prior to and up to the 25th day of February, 1851, on which day the road of this company was opened to Columbus, have devoted their talents and services to the interests of the Co., without making any charge for their services as directors; therefore,

Resolved, That the following gentlemen who, during the construction of the road, were members of the board of directors, viz: Alfred Kelley, Richard Hilliard, L. Case, H. B. Payne, J. Gillett, J. M. Woolsey, J. W. Allen, Geo. M. Atwater, W. A. Otis, Hosea Williams, and Geo. Mygatt, shall, during their natural lives, be entitled to free passage over the road of this company, and that the secretary of the company be authorized to issue tickets accordingly.

And further resolved, That the stockholders of this company hereby express their sense of the faithfulness and ability with which their interests have been managed by the directors in prosecuting so great an enterprise to entire success, and return their thanks to their directors for their services rendered without compensation.

On motion of W. D. Beattie,

Resolved, That the widows of P. M. Weddell and Joseph Ridgeway, jr., in consideration of the services of their husbands, now deceased, in the construction of the road of this company, be each presented with a free ticket to pass over the road during their natural lives.

M. J. WILLIAMSON, *Sec'y.*

CLEVELAND, *January 12th*, 1853.

At a meeting of the stockholders of this company this day, (H. B. Payne, acting pres't, in the chair,) Mr. Woolsey offered the following resolution:

Resolved, That the number of directors of this company be increased to eleven.

On which motion, 18,205 votes were given in favor, which being a majority of all the stock in said company, it was declared that said resolution was duly passed.

M. J. WILLIAMSON, *Sec'y.*

"We, the undersigned, judges of the election held by the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, on the 12th day of Jan'y, 1853, at their office, pursuant to previous notice, do hereby certify that there were 18,121 votes cast in favor, and none against the proposition to increase the capital stock to the amount authorized by the 6th section of an act entitled An act regulating railroad companies, passed Feb. 11, 1848.

M. BARNETT,
S. WILLIAMSON,
JAS. J. TRACY,
Judges of Election."

"We, the undersigned, appointed judges to superintend the election of directors for the Cleveland, Columbus, and Cincinnati Railroad Company for the year 1853, having convened at the office

of said company in Cleveland, and having received and counted the votes given by the stockholders, do find that the persons below named received the number of votes set opposite their names, and being a majority of all the votes given, do declare that they are elected directors of said company for the year 1853.

Alfred Kelley	18,121
Leonard Case	18,121
H. B. Payne	18,121
J. M. Woolsey	18,121
R. Hilliard	18,121
J. Gillett	18,121
Wm. A. Otis	18,021
A. Stone, jr	18,121
H. Williams	18,121
R. H. Winslow	18,121
John Miller	18,121

CLEVELAND, *Jan'y* 12, 1853.

M. BARNETT,
S. WILLIAMSON,
JAS. J. TRACY,
Judges of Election."

THE STATE OF OHIO,
Cuyahoga County, ss:

CLEVELAND, *January 12th*, 1853.

Personally appeared H. B. Payne, Leonard Case, Jonathan Gillett, W. A. Otis, J. M. Woolsey, H. Williams, and A. Stone, jr., and were severally sworn faithfully to perform the duties of directors of the Cleveland, Columbus, and Cincinnati Railroad Company.

Before me,

E. HESSENMUELLER,
Justice of the Peace.

THE STATE OF OHIO,
Cuyahoga County, ss:

CLEVELAND, *May 2d*, 1853.

Personally appeared before the undersigned Richard Hilliard, and made solemn oath that he would faithfully perform the duties of director of the Cleveland, Columbus, and Cincinnati Railroad Company.

RICHARD HILLIARD.

Subscribed and sworn before me this 2d day of May, 1853.

F. W. BINGHAM,
Probate Judge.

CLEVELAND, *Sept.* 17*th*, 1856.

At a special meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, convened this day, at the office of the company, in the city of Cleveland, pursuant to the following notice—

CLEVELAND, COLUMBUS, AND CINCINNATI
RAILROAD COMPANY, SECRETARY'S OFFICE,
Cleveland, Ohio, Aug't 15*th*, 1856.

NOTICE.—The stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company are hereby notified that there will be a meeting of the company at its office in Cleveland, on the seventeenth (17th) day of September next, to approve or disapprove of a contract prepared and agreed upon by and between the directors of said company and the directors of the Cleveland and Toledo Railroad Company, granting to the latter company the use in common for the term of twenty-one years, with the privilege of renewing for a like period of time of so much of the tracks and depots of the former company as are situated at and between Cleveland and Grafton.

By order of the board:
H. C. MARSHALL, *Sec'y.*

On motion, Wm. Collins, esq., was appointed chairman, and T. P. Handy, secretary.

The object of the meeting was stated by the president, who offered the following resolution:

Resolved, That the contract as drawn up and agreed to by and between the directors of this and the Cleveland and Toledo Railroad Company, dated July 30, 1856, granting to the latter company the use in common of the tracks, grounds, and depots, at and between Cleveland and Grafton, for the term of twenty years, with the privilege of renewal for a like period of time, be and the same is hereby approved of as the proper act of this company, which, after being fully discussed, was unanimously adopted.

WM. COLLINS,
Chairman.

T. P. HANDY, *Sec'y.*

OFFICE OF THE CLEVELAND, COLUMBUS, AND
CINCINNATI RAILROAD COMPANY,
Cleveland, July 30*th*, 1857.

I hereby certify that the foregoing are true copies from the "stockholders' journal" of this company.

GEO. H. RUSSELL, *Sec'y.*

CLEVELAND, *July* 1*st*, 1854.

At a meeting of the stockholders of the Cleveland, Columbus,

and Cincinnati Railroad Company held at the office of the co., in Cleveland, this day, pursuant to a call of the board of directors, dated June 16th, 1854, capital stock to the amount of 18,984 shares being represented by holders in person or by proxy.

On motion, W. B. Hubbard, esq., of Columbus, was called to the chair, and M. J. Williamson, appointed sect'y.

The object of the meeting was stated by the pres't of the company, when, on motion, the following resolutions were unanimously adopted:

1st. *Resolved*, That the endorsement of $200,000 of the income bonds of the Bellefontaine and Indiana Railroad Co., by virtue of an order of the board, dated January 31st, 1854, be and the same is sanctioned and approved by this meeting as the proper act of this company.

2d. *Resolved*, That the endorsement, jointly or severally, with the Bellefontaine and Indiana and the Indianapolis and Bellefontaine Railroad Companies of $400,000 of the 3d mortgage bonds of the Columbus, Piqua, and Indiana Railroad Co., by order of the board, March 6, 1854, be and the same is approved, adopted, and sanctioned by this meeting as the proper act of this company.

3d. *Resolved*, That the subscription of $50,000 to the capital stock of the Mississippi and Atlantic Railroad Company, under the order of the board, June 16, 1854, be and the same is sanctioned and approved by this meeting as the proper act of this company.

4th. *Resolved*, That the stock subscribed by individuals in the Bellefontaine and Indiana and Indianapolis and Bellefontaine Railroad Companies to the amount of $117,500 be assumed and taken by this company as its own property.

On motion of H. B. Payne, esq.—

Resolved, That no aid shall hereafter be rendered to any other railroad co. in the construction of its road, by a subscription to the capital stock, or by loan of the money or credit of this company, or in any other manner, until after the proposition for rendering such aid has been submitted to the stockholders at a meeting to be called by the board of directors upon a notice of at least thirty days, specifying the time and place of such meeting, and the object thereof, to be addressed to each stockholder resident without this county whose place of residence is known, and published for three successive weeks in some daily newspaper of general circulation in the cities of Cleveland, Columbus, and New York, and have been sanctioned by a vote of two-thirds in amount of the stockholders present at such meeting, voting either in person or by proxy, each share of capital stock being entitled to one vote.

On motion of Geo. Jones, esq.—

Resolved, That, although differences of judgment touching the details of the policy pursued by the directors of this company, unexplained, may have existed, the energy and integrity which have

uniformly characterized the action of the board, no less than the success which has crowned their labors, command decided and unanimous approval.

Alfred Kelley, esq., presented the following resolutions:

Resolved, That so much of the net earnings of the road as shall be found necessary to balance the depreciation of the rails, ties, wooden structures, and other perishable parts of the road should be annually applied to the purpose of restoring or renewing such perishable parts of the road, or should be reserved and invested as a sinking fund for that purpose, to the end that the cost of the road and its appurtenances (represented by its stock and debts) shall not be increased beyond its actual value.

Resolved, That it is expedient to create from the earnings of the road a reserved fund equal to at least per cent. on its entire cost, to meet unexpected accidents and expenses, or unexpected deficiencies in the earnings of the road, so as to enable the company to make uniform cash dividends without increasing the capital stock or debts of the company.

Resolved, That the amount of the surplus earnings of the road, not required to be reserved for the purposes set forth in the two preceding resolutions may, at the discretion of the directors, be applied to the construction of new tracks or other new works pertaining to the road, or to the purchase of new machinery, and the amount so invested divided at suitable times among the stockholders in new stock.

Which, upon his motion, were referred to a committee of three, to report thereon at the annual meeting of the stockholders in January next.

On motion of Mr. Payne—

W. B. Hubbard, of Columbus, Tho's W. Olcott, of Albany, N. Y., and Joseph Perkins, of Cleveland, were appointed said committee.

On motion, adjourned sine die.

W. B. HUBBARD, *Ch'n.*

M. J. WILLIAMSON, *Sec'y.*

CLEVELAND, *Jan'y 9th*, 1856.

At the annual meeting of the stockholders held this day pursuant to a notice, L. M. Donaldson was appointed chairman, and T. P. Handy, sect'y.

Ten stockholders being present, meeting was adjourned to 3 o'clock p. m.

3 P. M.

Communications were received from the pres't of the Columbus, Piqua, and Ind'a R. R. and the Cleveland, Medina, and Tuscurawas R. R., which were reported to a committee consisting of Messrs. Prosser, Hilliard, and Stone. The following resolution was then unanimously adopted, viz:

Resolved, That the arrangement for furnishing equipment to the Ohio and Indiana and Fort Wayne and Chicago Railroad Companies, as entered on the book of record of the directors, Sept. 22, 1855, be and the same is hereby confirmed—it being distinctly understood that none of the equipment is to be furnished until the road is completed through to Chicago, and satisfactory running arrangements are concluded; also, that the legal title and ownership shall remain in this company until an equivalent is received therefor of the value of the same in cash.

An abstract of the condition and affairs of the company was presented by the president as appears from its books.

The committee reported on the application of the Cleveland, Medina, and Tuscarawas R. R. Co.

On motion of Mr. Woolsey, report accepted and adopted, and the following resolution was passed:

Resolved, That the directors be and they are hereby authorized to subscribe for five thousand dollars stock in the Cleveland, Medina, and Tuscurawas R. R. Company, provided that simultaneously with the making such subscription, the bonds of said company endorsed by this company be surrendered to the president of the C. C. and C. Co. held by him until they are needed to pay for the last one hundred thousand dollars' worth of iron to complete the said C. M. and T. Co. to Fairview

Meeting then adjourned.

T. P. HANDY, *Sec'y.*

CLEVELAND, *Jan'y 10th*, 1855.

At the annual meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, held at the office of the company, in Cleveland, this day, the meeting was called to order by Hon. A. Kelley, pres't, and, on motion of A. Stone, jr., W. B. Hubbard, esq., of Columbus, was appointed chairman, and T. S. Harlach, sect'y.

On motion of Mr. Stone—

Resolved, That E. B. Wesley, of New York, be added the committee appointed at a meeting of the stockholders, July 1st, 1854, to report at this meeting on certain resolutions.

H. B. Payne offered the following:

Resolved, That a committee of five stockholders, who are not members of the present board of directors, be appointed to prepare and present to this meeting a list of directors to be voted for by the stockholders to serve for the ensuing year, which was adopted, and Messrs. W. B. Hubbard, Joseph Perkins, E. B. Wesley, W. Collins, and M. B. Scott, were appointed said committee.

On motion, adjourned to 3 o'clock p. m.

Meeting at 3 o'clock p. m., pursuant to adjournment.

Hon. A. Kelley, president of the company, presented the annual

exhibit of the financial affairs of the company, which was laid on the table.

The committee appointed to report a list of directors to be voted for, for the ensuing year, reported the following persons:

Leonard Case, Alfred Kelley, Rich'd Hilliard, H. B. Payne, A. Stone, jr., S. Witt, M. B. Scott, L. M. Hubby, Jno. Miller, Joseph Perkins, E. S. Prosser.

On motion of T. M. Kelley, esq.—

Resolved, That the report be re-committed to a select committee of three from Cleveland, for revision, and that the chair appoint said committee.

The chair appointed Messrs. T. M. Kelley, Zalmon Fitch, and M. Barnett, said committee, who reported the list with the following amendment, viz: striking out the name of L. M. Hubby, and inserting that of Hosea Williams, of Delaware; which report was accepted.

On motion of H. B. Payne, esq.—

Resolved, That on account of not having received the list of stockholders from the New York transfer office, it is expedient at the present time to go into the election of directors.

The committee to whom was referred, at a meeting July 1st, 1854, certain resolutions relative to the application of earnings of the road, to make good depreciation, a reserve fund stock, dividends, &c., submitted their report, with sundry resolutions, which were read and laid on the table.

W. B. Hubbard, esq., offered resolutions (numbered 1, 2, 3) relative to monthly and annual exhibits made of disbursements, &c.; which were laid on the table.

On motion, adjourned sine die.

W. B. HUBBARD, *Ch'n.*
THO'S S. HARLACH, *Sec't'y.*

OFFICE OF THE CLEVELAND, COLUMBUS,
AND CINCINNATI R. R'D CO.,
Cleveland, July 29, 1857.

I hereby certify the foregoing to be true copies from the stockholders' journal of this company under the dates named.

GEO. H. RUSSELL, *Sec'y.*

"Poll book of a special meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Co., convened at the principal office of the company, in Cleveland, between the hours of 10 o'clock a. m. and 10 o'clock p. m., on the 26th day of January, 1855, for the election of directors for the current year, called in pursuance of an order of the board of directors, passed January 10th, 1855."

(Here follows the poll book.)

We, the undersigned, inspectors of the election held by the stock-

holders of the Cleveland, Columbus, and Cincinnati Railroad Company, on the 26th day of January, 1855, at their office, pursuant to previous notice, do hereby certify that there were 29,071 votes cast by stockholders, and do find that the persons named below, each, received the number of votes set opposite their names, viz:

Alfred Kelley	29,071
Leonard Case	29,071
Richard Hilliard	29,071
John Miller	29,071
Hosea Williams	28,965
Amasa Stone, jr	27,985
William Witt	27,985
E. S. Prosser	27,793
Leander M. Hubby	17,761
Martin B. Scott	17,711
Sam'l Williamson	17,571
Henry B. Payne	11,606
Wm. A. Otis	11,498
Jo'n Gillett	11,310

And we do certify that the first eleven names above have received a majority of all the votes given, and are duly elected directors of said company for the year 1855.

(Signed) M. BARNETT,
S. FINCH,
DUDLEY BALDWIN,
Inspectors of Election.

January 26, 1855.

OFFICE OF THE CLEVELAND, COLUMBUS,
AND CINCINNATI R. R'D CO.,
CLEVELAND, *Sept.* 18*th*, 1857.

I hereby certify that the foregoing is a true copy from the journal of the stockholders of this company under date of January 26th, 1855.

GEO. H. RUSSELL, *Sec't'ry.*

The depositions taken in this cause and filed in the clerk's office of said court, were read during the trial thereof, and are as follows, to wit:

Depositions taken on the part of the Complainant.

Depositions of Moses G. Mitchell and Soloman Brecount, taken on the part of the complainant on the 9th day of July, 1856, in the town of Piqua, Miami county, Ohio, by J. T. Janvier, a notary public in and for the county of Miami and State of Ohio, and which

said depositions were filed in the clerk's office aforesaid on the 12th day of July, A. D., 1856.

CIRCUIT COURT OF UNITED STATES,
Northern District of Ohio :

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO. } In Chancery.

Depositions will be taken in the above case by the complainant at the office of Moses G. Mitchell, esq., in the town of Piqua, in the county of Miami and State of Ohio, on Wednesday, the 9th day of July, A. D., 1856, between the hours of 9 o'clock, a. m., and 4 o'clock, p. m., of said day, and will be continued from day to day between said hours until all of said depositions may be taken.

OTIS, SEARS, & WYMAN,
Solicitors for Complainant.

Messrs. BACKUS & NOBLE,
Solicitors for Defendant.
Cleveland, July 5, 1856.

We hereby accept service of the above notice, and agree that the depositions may be taken in the same manner and before the same authority as prescribed for taking depositions to be used in the courts of this State.

BACKUS & NOBLE,
Defendants' Attorneys.

Cleveland, July 5, 1856.

Depositions of witnesses taken before me, a notary public in and for the county of Miami and State of Ohio, on the 9th day of July, 1856, between the hours of 9 o'clock, a. m., and 4 o'clock, p. m., to be read in evidence in behalf of the complainant in a certain action pending in the circuit court of the United States for the northern district of Ohio, wherein Christian A. Zabriskie is complainant and the Cleveland, Columbus, and Cincinnati Railroad Company are defendants, pursuant to notice hereto attached.

Moses G. Mitchell, a witness of competent age and resident of said county of Miami, being first duly sworn by me, deposes and says :

Question by Mr. Otis, solicitor for complainant. Are you named as one of the corporators in the act to incorporate the Columbus, Piqua, and Indiana Railroad Company ?

Answer. I am.

Question by same. At what time did said company organize ?

Answer. In February, 1850.

Question by same. What relation have you sustained to said company ?

Answer. I have been a director in the company ever since its organization, and was president until last February. I am now vice president and financial agent of the company.

Question by same. What line was adopted by the company for their road?

Answer. The line of the road commences at Columbus and extends westerly through Urbana and Piqua, Union being the western terminus.

Question by same. At what time was the Columbus, Piqua, and Indiana Railroad opened from Columbus to Urbana, and what is the distance between said points?

Answer. This part of the road was opened in September 1853; the distance between the points is about forty-six miles.

Question by same. At what time was said road opened from Urbana to Piqua, and what is the distance between said points?

Answer. In October, 1854; the distance between the points is about twenty-six miles.

Question by same. Has said road been opend beyond Piqua, and what is the distance between Piqua and Union?

Answer. The road has not been opened beyond Piqua. The distance between Piqua and Union is about thirty miles.

Question by same. What is the amount of the unfunded or floating indebtedness of the company, and what means, if any, have the company of paying the same?

Answer. The floating debt of the company, including domestic bonds, amounts to about $476,000. The company has no means of any kind with which to pay its debts or finish the road, except a contract with the Cambria Iron Company.

Question by same. What is that contract or claim worth?

Answer. It is difficult to say; the highest price that has been offered for it is fourteen hundred tons of rails, as a compromise, which would be about $84,000, delivered at the mill where the offer was made to deliver them.

Question by same. What will it cost to open said road from Piqua to Union in a manner suitable to do business, and also to furnish the necessary rolling stock?

Answer. To finish the road from Piqua to Union, with the necessary buildings, will in my opinion require about $250,000. The additional rolling stock required when the road is finished to work it advantageously will cost one hundred thousand dollars.

Question by same. Have the company been able to pay the interest on their bonds, and have any proceedings been commenced by any class of bond-holders upon their bonds?

Answer. The interest on the bonds of the company has not been paid for some time, and the amount now due is included in my estimate of the amount of the floating debt. A suit has been commenced by the first mortgaged bond-holders to foreclose their mortgage.

Question by same. If the Columbus, Piqua and Indiana Railroad shall be completed to Union, what effect will it have upon the business of the Cleveland, Columbus, and Cincinnati Railroad, and also upon the Bellefontaine and Indiana Railroad?

Answer. The completion of the Columbus, Piqua and Indiana Railroad would in my opinion detract largely from the business of Bellefontaine road, and would probably affect that of the Cleveland, Columbus, and Cincinnati slightly, by diminishing its business.

Question by same. What gauge was originally adopted by the Columbus, Piqua, and Indiana Railroad Company for their road?

Answer. That of 4 ft. 8½ inches.

Question by same. What portion of the road was laid with guage, and when and to what was the guage changed?

Answer. The only portion laid with that guage was that between Columbus and Cleveland, and that was changed to 4 feet ten inches about the time that the line was opened between Urbana and Piqua in October, 1854.

Question by same. What guage was originally adopted by the Indianapolis and Bellefontaine Railroad Company for their road; and was any arrangement ever made between said company and the Columbus, Piqua, and Indiana Railroad Company to run their roads in connection?

Answer. The guage originally adopted by the Indianapolis and Bellefontaine Railroad Company was that of 4 ft. 8½ inches, and there was a contract between the two roads to run the two roads in connection.

Question by same. State the effect of the adoption of the narrow or Indiana guage upon the convenient and profitable transportation of passengers and freight over the Columbus, Piqua, and Indiana Railroad?

Answer. Shortly after we commenced operating that part of the line between Columbus and Urbana, we discovered that the narrow guage operated prejudicially to the business of the road, surrounded as we were by roads of 4 ft. 10 inches.

Question by same. What width of guage did the true interest of said road require to be adopted?

Answer. I have now no doubt but that the true interest of the Columbus, Piqua and Indiana Railroad was the adoption of the 4 ft. 10 inch guage.

Question by same. Did the Columbus, Piqua, and Indiana Railroad Company make an issue of third mortgage bonds; and if yea, state the number and denomination of said bonds issued by said company, their date, when and where payable, the rate of interest which said bonds bore, and when and where said interest was payable?

Answer. They did make such an issue; it embraced six hundred bonds of the denomination of one thousand dollars each; they were

dated April 1st, 1854, and payable at Ohio Life Insurance and Trust Co., in the City of New York, fifteen years after the date thereof, bearing interest at the rate of 7 per cent. per annum, and payable semi annually, at the same place, on the 1st days of April and October.

Question by same. Was any committee appointed by the directors of said company to sell and dispose of said issue of third mortgage bonds; and if yea, state who composed said committee; what efforts they made to dispose of said bonds; also to whom, at what price, and at what place and time said bonds were sold; and if the agreement of sale embraced any other items in addition to said bonds, state such items, and the price at which they were respectively sold?

Answer. There was a committee appointed by the directors of the Columbus, Piqua, and Indiana R. R. Co.; S. G. Brucount, David Alexander, and myself, composed said committee; we were fully authorized to sell the whole, or any part of these bonds, and also to control and dispose of the whole question of the guage, as between the Indianapolis and Bellefontaine and the Columbus, Piqua, and Indiana Companies. Shortly after our appointment we commenced negotiations, at the city of Philadelphia, for the sale of these bonds, pending which, Mr. Wm. Dennison came to Philadelphia and entered into an agreement with us to purchase, on account of himself and Wm. Neil, esq., the entire issue of said third mortgage bonds, and sixty thousand dollars of the capital stock of the Columbus, Piqua, and Indiana R. R. Co., and the right to control the guage question. The amount paid by Messrs. Neil & Dennison for the items above specified was $365,000. Something was said at the time as to the price which was to be affixed to the different items, but as I have not the contract before me, I do not attempt to give its language. My estimate of the different items was 55 cents for the bonds, 50 cents for the stock, and $5,000 for the right to control the guage.

Question by same. How came the control of the guage to be placed at five thousand dollars?

Answer. That was the estimated cost of changing the guage and adapting the machinery to it.

Question by same. At the time of the sale of the aforesaid bonds, stock, and control of the guage to Messrs. Neil and Dennison, where did they reside, and who conducted the negotiations on their behalf?

Answer. They resided at Columbus, Ohio, at the time of the sale; and Dennison conducted the negotiations at Philadelphia on behalf of Mr. Neil and himself.

Question by same. What was the nominal price at which said capital stock was purchased by Messrs. Neil and Dennison, and what reason, if any, was given therefor?

Answer. Nominally, the stock was sold at par, at the sugges-

tion of Mr. Dennison, alleging, as a reason for so considering it, that hereafter some legal difficulties might arise, if it should be sold for less than its par value.

Question by same. At what time were said bonds, stock, and the control of said guage sold to Messrs. Neil and Dennison, and how were the terms of said sale evidenced?

Answer. The sale of the bonds, stock, and the control of the guage was agreed upon in Philadelphia about the 20th of February, 1854; a very full pencil memorandum was drawn up, embracing, I believe, all the conditions of the agreement which were then adopted; it being agreed that the parties should repair to Columbus, Ohio, where it should be signed—Mr. Neil not being present.

Question by same. At the time of said sale in Philadelphia, in whose possession were said bonds?

Answer. The bonds were in the hands of the lithographer at the time the contract was made; they were subsequently sent to me at Columbus, and there executed and delivered to Messrs. Neil and Dennison.

Question by same. At what time was the contract for the sale of said bonds, stock, and the control of said guage to Messrs. Neil and Dennison, reduced to writing in Ohio, and executed by said committee and said Neil and Dennison; and also at what time were said bonds executed and delivered to them?

Answer. The contract was, I think, reduced to writing, and signed by Messrs. Neil and Dennison and two members of the committee (Brecount and Alexander) about the 25th of Feb'y, 1854. I was not present, but saw the contract afterwards. The bonds were not executed until some time afterwards; I cannot state the precise time.

Question by same. In whose handwriting is said contract?

Answer. It is, I believe, in the handwriting of Mr. Dennison.

Question by same. Who took charge of the bonds in the hands of the lithographer after said sale in the city of Philadelphia?

Answer. Mr. Dennison did, at his own suggestion.

Question by same. At the time of the sale of said bonds, stock, and the control of said guage, what relation did Messrs. Neil and Dennison sustain to the Columbus, Piqua, and Indiana Railroad Company; and what relation did they sustain to each other?

Answer. At the time of the sale, Mr. Dennison was a director and the vice president of the company. Mr. Neil was a large stockholder, and had been appointed the financial agent of the company in connection with another person. Mr. Dennison was the son-in-law of Mr. Neil.

Question by same. Prior to the arrival of said Dennison in Philadelphia, at the time of the sale of said bonds, stock, and the control of said guage, were any communications received by said committee from him relative to the disposition of said bonds; and if yea, what was their nature?

Answer. The committee did receive communications from Mr. Dennison prior to his arriving in Philadelphia, both by letter and telegraph, intimating that he and Mr. Neil were inclined to purchase the entire issue of bonds. We received a dispatch from him some two or three days before he arrived, informing us that he would meet us about a given day, and suggesting that we would hold on till he arrived, and close no contract.

Question by same. At the time of the sale of said bonds, stock, and the control of said guage as aforesaid to Neil and Dennison, what knowledge had you of the existence of any arrangement between them and the Cleveland, Columbus, and Cincinnati, the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies, whereby said companies were to purchase of them $30,000 of the capital stock of the Columbus, Piqua, and Indiana Railroad Company at par, and were to endorse and guarantee four hundred of said third mortgage bonds?

Answer. At the time of said sale I had no knowledge whatever of the existence of any such arrangement.

Question by same. When and under what circumstances did you first become acquainted with the existence of such arrangement?

Answer. When the bonds arrived in Columbus from the lithographer in New York, I was telegraphed by Mr. Dennison, as per agreement, to go to Columbus to execute them, and it was not until I had opened the package from the express office and saw the printed guarantee on the back of the bonds, that I had the slightest intimation of any such arrangement ever having been made.

Question by same. Had you any conversation with said Neil in relation to the amount of money which he and Dennison would realize from said arrangement; and if yea, what was that conversation?

Answer. I had a conversation with Mr. Neil in relation to what he and Mr. Dennison would probably realize out of the transaction. I stated to him that if the guarantee made by the directors of the Cleveland, Columbus, and Cincinnati Company should be ratified by the stockholders, that they could not fail to make less than one hundred thousand dollars, to which he replied that I could not tell, that they had been obliged to pay a large bonus to get the guarantee through.

Question by same. When did you learn that the arrangement of Neil and Dennison with the aforesaid companies embraced a sale to them of $30,000 of the capital stock of the C., P., and I. Railroad Company as well as a guarantee of said bonds?

Answer. It was some time after that I learned that the guarantee of the bonds had been made that I learned they (Neil and Dennison) had sold to the aforesaid companies thirty thousand dollars of the stock which they had purchased from us. The precise time I cannot recollect.

Question by same. At the time said four hundred bonds were

endorsed and guaranteed by the Cleveland, Columbus, and Cincinnati, the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies, what interest, if any, had the Columbus, Piqua, and Indiana Railroad Company in said bonds; and what benefit, if any, accrued to said last-mentioned company from said endorsement?

Answer. At the time of the endorsement of these bonds the Columbus, Piqua, and Indiana Railroad Company had no interest in them whatever, nor have ever to my knowledge received any benefit from said endorsement.

Question by same. What was the amount of the first and second issue of mortgage bonds; and what was the character of all the issues of mortgage bonds by the C., P., and I. Railroad Company in regard to their convertibility into the capital stock of said company?

Answer. The first issue of mortgage amounted to $600,000. The second, to $400,000. All the mortgage bonds of the company were convertible into the stock of the company at the will of the holder at any time before their maturity.

M. G. MITCHELL.

Also, Solomon Brecount, of the county of Champaign, and of lawful age, being first duly sworn, deposes and says:

Question by Mr. Otis, solicitor for complainant. What relation did you sustain to the Columbus, Piqua, and Indiana Railroad Company from February, 1851, to April, 1854?

Answer. I was a director during that whole time, and a part of the time a member of the executive committee, and for one month a member of the special committee sent to Philadelphia to dispose of the 3d mortgage bonds of the company.

Question. Did said committee sell and dispose of said issue of third mortgage bonds; and if yea, to whom, at what price and at what time and place were said bonds sold? If the agreement of sale embraced any other items in addition to said bonds, state such items, and the price at which they were respectively sold?

Answer. We did sell and dispose of said bonds to Messrs. Neil & Dennison, of Columbus. We sold the issue of six hundred thousand dollars of bonds, sixty thousand dollars of the capital stock of the co., and the control of the road guage for the sum of three hundred and sixty thousand dollars, or three hundred and sixty-five thousand dollars—I think the latter sum. The main features of the contract were agreed to at Philadelphia about the 21st or 22d of February, 1854, and were in substance written out in pencil there and at that time. The stock, sixty thousand dollars, was sold at par, at the suggestion of Mr. Dennison, that we had no right to sell it at a less rate. I don't recollect any distinct price being put upon the bonds and the control of the guage of the road separately, but five thousand dollars were not to be paid until the

company should be ready to change the guage and adapt the machinery to it.

Question by same. Who acted in these negotiations in behalf of Neil and Dennison.

Answer. William Dennison, jr. Before the arrival of Mr. Dennison, however, Mr. Walkup, at the suggestion of Messrs. Neil & Dennison, came to Philadelphia to urge an acceptance of their offer, and brought with him a letter of Mr. Hilliard to the same effect.

Question by same. When and where was said contract of sale reduced to writing, and executed by said committee and Neil and Dennison?

Answer. Immediately after said sale Mr. Alexander and myself left Philadelphia and returned to Columbus, and on the morning of the 25th of February, 1854, signed the contract, Mr. Alexander and myself executing the same on behalf of the company, and Messrs. Neil and Dennison for themselves.

Question by same. Was the contract already drawn up when you arrived at Columbus?

Answer. On the morning of our arrival at Columbus we repaired to the Exchange Bank, where the contract was produced by Mr. Dennison, ready drawn up, and after a few slight alterations, it was executed by the parties.

Question by the same. What relation did Mr. Dennison sustain to said Columbus, Piqua, and Indiana Railroad Company at the time of the sale of said bonds, stock, and the control of the guage of said road to Neil and himself, and also what relation did he sustain to Mr. Neil?

Answer. Mr. Dennison had been from its organization one of the directors of the company; but prior to the signing of the contract at Columbus, Mr. Dennison exhibited a written resignation of of that position. When at Philadelphia, he said that he should resign his directorship before signing the proposed contract.

Question by same. Do you know when said resignation was dated, and whether the same was antedated or not?

Answer. The date I do not recollect. My impression now is, that it was dated prior to the day on which the contract was signed.

Question by same. At the time of the sale of said bonds, stock, and the control of said guage as aforesaid to Neil and Dennison, what knowledge had you of the existence of any arrangement between them and the Cleveland, Columbus, and Cincinnati, the Bellefontaine, and Indiana and the Indianapolis and Bellefontaine Railroad Companies, whereby said companies were to purchase of them $30,000 of the capital stock of said Columbus, Piqua, and Indiana Railroad Company at par, and were to endorse and guarantee four hundred of said third mortgage bonds?

Answer. I had no knowledge of any such arrangement. The

first time I became aware of it, was in a casual call on Judge Mitchell, while he was engaged in the execution of the bonds, and was greatly surprised then at ascertaining the fact. I did not learn of the sale of the stock till afterwards.

Question by same. At the time said four hundred bonds were endorsed and guarantied by the aforesaid companies, what interest had the Columbus, Piqua, and Indiana Railroad Company in said bonds; and what benefit accrued to said last-mentioned company from said endorsement?

Answer. The Col., Piqua, and I'a R. R. Co. had no interest in said bonds to my knowledge, and no benefit accrued to them from the endorsement thereon. The bonds, stock, &c., were the private property of Messrs. Neil & Dennison. During the negotiation with them, Mr. Neil stated, however, that in order to enable them to complete the arrangement they must enlist other parties. These parties were not named, and I supposed that capitalists or brokers in New York were alluded to. This statement was made when I was passing through Columbus, on my way to Philadelphia.

SOLOMON G. BRECOUNT.

I, J. T. Janvier, a notary public in and for the county of Miami, and State of Ohio, do hereby certify that the above-named witnesses, M. G. Mitchell, and S. G. Brecount were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition of said M. G. Mitchell was reduced to writing by himself in my presence, and that the deposition of said S. G. Brecount was reduced to writing by me; and that said depositions were subscribed by said witnesses respectively in my presence; also that said depositions were taken at the time and place specified in the notice hereto attached.

I further certify that I am not of counsel to either of the parties to said suit, or in any manner interested in the event thereof.

In witness whereof, I have hereunto set my hand and affixed my [SEAL.] official seal on this 9th day of July, A. D. 1856.

J. T. JANVIER,
Notary Public, Miami Co., Ohio.

Notary's fees, $6 00.....		.....$6 00
Witnesses do.		
S. C. Brecount, fee and mileage.		1 00
M. G. Mitchell,	do.	1 00
		$8 00

Postage
Paid by Mr. Otis, sol'r for compl't.

J. T. JANVIER, *N. P.*

Depositions of J. R. Hilliard, R. Walkup, and David Alexander,

taken on the part of the complainant, at the city of Columbus, Ohio, on the 11th day of July, A. D. 1856, by J. O. Reamy, notary public in and for Franklin county and State of Ohio, and which said depositions were filed in the clerk's office aforsesaid on the 12th day of July, A. D., 1856.

CIRCUIT COURT OF UNITED STATES,
Northern District of Ohio.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY. } In chancery.

Depositions will be taken in the above case by the complainant at the office of McCook and Andrews, in the city of Columbus, Ohio, on Friday, the 11th day of July, A. D. 1856, between the hours of 9 o'clock, a. m., and 4 o'clock, p. m. on said day, and will be continued from day to day between said hours until all of said depositions may be taken.

OTIS, SEARS, and WYMAN,
Solicitors for Complainant.

To BACKUS & NOBLE,
Solicitors for Defendants.

CLEVELAND, *July 5th*, 1856.

We hereby accept service of the above notice, and agree thatthe depositions may be taken in the same manner and before the same authority as prescribed for taking depositions to be used in the courts of this State.

BACKUS & NOBLE,
Defendants' Attorneys.

CLEVELAND, *July 5th*, 1855.

Depositions of witnesses taken in a case pending in the circuit court of the United States for the northern district of Ohio, wherein Christian A. Zabriskie is plaintiff, and the Cleveland, Columbus, and Cincinnati Railroad Company are defendants, and for said plaintiff at the time and place hereinafter mentioned.

Present, W. S. C. Otis, counsel for plaintiff.

J. R. Hilliard, of the county of Franklin, of lawful age, having first duly sworn by me as hereinafter certified, deposes and says—

Question by plaintiff's attorney. Are you connected with the Columbus, Piqua, and Indiana Railroad Company as one of its directors; and if so, how long have you been such director?

Answer. I am one of the directors of the company, and have been so since the organization of the company in February, 1850, I think.

Question by same. Was William Dennison, jr., also one of the

directors of said company; if so, how long did he serve as such director?

Answer. He was a director of the company from its organization until March 2d, 1854, and was vice president during the last two years he served in the board.

Question by same. What guage was originally adopted by said company for its road?

Answer. Four feet eight and one-half inches, or the Indiana guage.

Question by same. State the effect of the adoption of the Indiana guage upon the convenient and profitable transportation of passengers and freight over said road?

Answer. We found the Indiana guage was very inconvenient—all of our connecting roads being of the Ohio guage, four feet ten, and which required all freight from other roads passing over our road to be transhipped. I was the superintendent of the road for about the period of three years after it was opened, and my attention was called to this subject very soon.

Question by same. What width of guage did the true interests of said road require to be adopted?

Answer. The Ohio guage.

Question by same. Was the work upon said road suspended at any time; and if so, for what cause and for how long a period?

Answer. The work was suspended in October, 1853, and was resumed in May, 1854. The suspension arose for the want of means.

Question by same. What was regarded the cash value of the stock of said company in January and February, 1854?

Answer. There was hardly any cash value attached to the stock. There was some sold at from fifty to sixty cents at that time.

Question by same. Was Rankin Walkup sent to Philadelphia in or about the month of February, 1854, to have an interview with M. G. Mitchell, S. G. Brecount, and D. Alexander, who had previously gone to Philadelphia on behalf of said company to raise the means to complete said road, and pay the floating debts of said company; and if so, at whose request and for what purpose did he go to Philadelphia?

Answer. He was sent to Philadelphia in the latter part of January, or first part of February, 1854, to have an interview with said committee, and to prevent them from making a contract with parties in Philadelphia. Messrs. Neil and Dennison submitted a proposition to me, which they were anxious should be accepted. I immediately telegraphed to Mr. Walkup, at Piqua, to come to Columbus, and he arrived here the same day. On his arrival we met Mr. Neil and I think Mr. Dennison. They submitted the proposition to Mr. Walkup and myself. They said if they had anything to do with it they wanted to know it, and it was agreed and desired

by all parties that Mr. Walkup should go immediately to Philadelphia. Mr. Walkup left the next morning for Philadelphia on the express train, taking with him a copy of their proposition. I telegraphed the committee at the same time to hold on until Mr. Walkup arrived, and also sent them, by mail, a copy of the same proposition, lest some accident should detain Mr. Walkup on the way.

Question by same. At the time of the sale of the third mortgage bonds and the stock of said company to Neil and Dennison and giving them the control of the guage question, what knowledge had you, if any, of the existence of any arrangement between them and the Cleveland, Columbus, and Cincinnati, the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies, whereby said companies were to purchase of them thirty thousand dollars of the capital stock of the Columbus, Piqua, and Indiana Railroad Company at par, and were to endorse and guarantee four hundred of said mortgage bonds?

Answer. I had no knowledge of anything of that kind. From an interview we had previously had with Bruff, Godman, and Wytt, we were induced to believe they would take some of the stock of our company to settle the guage question, say from thirty to fifty thousand dollars.

Question by same. When did you first become acquainted with the arrangement between Neil and Dennison and the aforesaid companies?

Answer. I think in April or May, 1854.

Question by same. Had you any conversation with said Neil in relation to the amount of money he would realize from said arrangement, and if so, state the same.

Answer. After I learned that the endorsement had been made, I said to Mr. Neil that it was a very nice thing for him, and that he would make a nice sum of money out of the bonds. I think that I stated the amount which he would make at an hundred thousand dollars. His remark was, that he would not make so much; that it cost something to get it; that he had to sweeten it.

Question by same. Did you at this time know of the sale of the stock to said companies?

Answer. I think I had some knowledge of the sale, but don't recollect the particulars.

Qus. by same. At the time said four hundred bonds were endorsed and guaranteed as aforesaid, and said stock was sold to them, what interest, if any, had the Columbus, Piqua, and Indiana Railroad Company in said bonds and stock, and what benefit, if any, accrued to said last mentioned company from said endorsement of bonds and sale of stock?

Ans. The company had no interest in said bonds or stock. They were the private property of Neil and Dennison.

Qus. by same. How did Neil and Dennison pay the indebtedness

of the company to Ridgway & Kimball of $32,085 74, which they assumed by their contract dated February 28, 1854?

Ans. I am informed that they paid a portion of said debt in said third mortgage bonds, unindorsed, at seventy-five cents on the dollar.

Qus. by same. If the Columbus, Piqua, and Indiana Railroad, shall be completed from Piqua to Union, what effect will it have on the business of the Bellefontaine and Indiana, and the Cleveland, Columbus, and Cincinnati Railroad?

Ans. I think if said road shall be completed it will largely diminish the business of the Bellefontaine and Indiana Railroad, and I think would not add to the business of the Cleveland, Columbus, and Cincinnati Railroad Company, and further this deponent saith not.

JOHN R. HILLIARD.

Also R. Walkup being first duly sworn by me as hereinafter certified, deposes and says:

Qus. by Mr. Otis. For how long a period were you a director in the Columbus, Piqua, and Indiana Railroad Company?

Ans. I was a director in said company from February, 1850, to February, 1856.

Qus. by same. What guage did the true interests of said company require?

Ans. The road was opened in July, 1853, from Columbus to Urbana. In the spring previous I tendered my resignation as a director, which was not accepted, and moved to Troy, Miami county. In October following I was appointed general ticket and freight agent. From that time I took an active part in the road, and along early in the winter following, I became satisfied that the true interests of the road required the Ohio guage.

Qus. by same. What conclusion did you come to in regard to the guage question as to its ultimate bearing upon the road?

Ans. Taking things as they were, I was satisfied that we could not complete the road unless it was done out of the guage question.

Qus. by same. Did you go to Philadelphia in the month of January or February, 1854, to have an interview with the committee of your company previously sent there to raise means to complete the road and pay its floating debt; if so, state at whose request you went, what document you took with you, and what was your object in going?

Ans. I left for Philadelphia in the express train, on the morning of the 2d of February, 1854; I went at the united request of Neil, Dennison, and Hilliard, and took with me a proposition to our committee, then in Philadelphia, from Neil and Dennison, in the handwriting of Mr. Dennison, (I think,) for the purchase of $600,000 of the third mortgage bonds of the company, and sixty thousand dollars of the stock, I think. When I got to Philadelphia I delivered the proposition of Neil and Dennison to the committee. I found, on my

arrival in Philadelphia, that a meeting by those interested in our road had been called for the next evening. I attended the meeting with our committee. After hearing the propositions made to our company for aid, I considered them insufficient to complete the road and relieve the company, and opposed their acceptance on the part of our committee, and urged the acceptance of the proposition of Neil and Dennison, which I had taken with me. I returned to Columbus on the 9th of February. Before I left Philadelphia I became satisfied that the committee would accept the proposition of Neil and Dennison, and think I telegraphed to Columbus to that effect. I saw Mr. Neil and Mr. Hilliard on my return. Mr. Dennison I did not see. I think he had gone east.

Qus. by same. At the time of the sale of said mortgage bonds and stock to Neil and Dennison, what knowledge had you, if any, of the existence of any arrangement between them and the Cleveland, Columbus, and Cincinnati, the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies, whereby said companies were to purchase of them thirty thousand dollars of the capital stock of the Columbus, Piqua, and Indiana Railroad Company, at par, and were to endorse and guarantee four hundred of said mortgage bonds?

Ans. I had no knowledge of any such understanding—and I did not know of the arrangement until some time in the spring after it was consummated.

Qus. by same. What interest, if any, had the Columbus, Piqua, and Indiana Railroad Company in said bonds and stock at the time four hundred of said bonds were endorsed and guaranteed by said companies?

Ans. None at all. The bonds and the stock were the private property of Neil and Dennison.

Qus. by same. Were you present at the meeting of the board of directors of your company, held at Columbus, on the 2d and 3d of March, A. D. 1854; if so, state in whose handwriting was the order passed by the board of directors adopting and ratifying the contract made between said company and Neil and Dennison, bearing date February 25, 1854?

Ans. I was present at those meetings, and the order was in the handwriting of Mr. Dennison; I feel confident.

Qus. by same. What was the value of the Columbus, Piqua, and Indiana Railroad stock, the last of January and the first part of February, 1854?

Ans. With those acquainted with the difficulties under which the company were laboring, there was but little value attached to it. Outsiders who were not acquainted with the embarrasments of the company, regarded it to be worth from fifty to sixty cents.

Qus. by same. If the Columbus, Piqua, and Indiana Railroad should be completed from Piqua to Union, what effect will it have upon the Bellefontaine and Indiana, and the Cleveland, Columbus, and Cincinnati Railroad?

Ans. I think it would detract considerably from the business of the Bellefontaine and Indiana Railroad, but would not affect materially either way, the business of the Cleveland, Columbus, and Cincinnati Railroad, and further deponent saith not.

R. WALKUP.

Also, David Alexander, being first duly sworn by me as hereinafter certified, deposes and says:

Question by Mr. Otis. Were you a director of the Columbus, Piqua, and Indiana Railroad Company; and if yea, for how long a period?

Answer. Yes; from some time in 1852, till in the spring or summer of 1854.

Question by same. Were you a member of the committee of ways, means, and connexions, sent by the C. P. & I. R. R. Co. to Philadelphia, in January, 1854, to raise means to complete the road of said company and pay its floating debt; and if yea, what time did you leave Columbus for Philadelphia?

Answer. Yes; was a member of said committee; left Columbus on the 25th or 26th of January, 1854.

Question by same. Have you the proposition from Neil and Dennison which R. Walkup brought to the committee in Philadelphia; if yea, please copy it into this deposition?

Answer. I have a paper in the hand writing of R. Walkup, represented by him to be the substance of a proposition from Neil and Dennison, and by said Walkup, laid before the committee while in Philadelphia, about 1st of February, 1854. It is in the following words, to wit:

"Mr. agrees to purchase to 600,000 3 m. bonds at 50, and to sell all of our 1st and 2d m. bonds, and to give to us the entire proceeds—the co. agreeing to give them the entire settlement of the guage question, and for all the cash received as a bonus the co. to issue to them stock for one-half of the amount, and for all the stock they received in the same way, the co. is to issue to them 20 p. c. of the amount in stock."

Qus. by same. What time did Wm. Dennison, jr., arrive in Philadelphia to negotiate with the committee; and did he notify you that he should come, and, if so, in what way?

Answer. I cannot be positive as to the exact time of Mr. Dennison's arrival in Philadelphia; it was in February, 1854, and I should think between the 10th and 20th of that month. The committee had previous notice from Mr. Dennison that he was coming to Philadelphia, which was communicated by telegraph.

Question by same. Where and under what circumstances was the contract between the committee and Neil & Dennison executed?

Answer. The substance of the agreement or contract between the committee and Neil & Dennison was concluded on and put into the form of a memorandum at Philadelphia, and on the return S. G. Brecount and myself to Columbus, on the 25th of February,

1854, we found Mr. Dennison at the Exchange Bank, with a contract drawn up in form, and which was then and there executed.

Question by same. When did you first learn of the existence of the arrangement between Neil & Dennison and the Cleveland, Columbus, and Cincinnati, the Bellefontaine and Indiana, and the Indianapolis and Bellefontaine Railroad Companies, whereby they agreed to endorse and guarantee four hundred of the 3d mortgage bonds of the C. P. and I. R. R. Co., and purchase of $30,000 of its capital stock at par?

Answer. The first reliable information I obtained touching the endorsement of said bonds by the companies above named was at the time said bonds were being executed by M. G. Mitchell, president; the day and date I am unable to state, probably some two or three weeks after the contract made by the committee with Neil & Dennison had been confirmed by the board. It may have been longer.

Question by same. In whose handwriting was the order adopted by the board of directors of the C. P. and I. R. R. Co., at their meeting, March 3d, 1854, approving and ratifying the contract made between said committee and Neil & Dennison, and bearing date Feb'y 25, 1854?

Answer. It was in the handwriting of Wm. Dennison, jr., to the best of my knowledge and belief.

Question by same. Who drew up the report of the committee made to the board?

Answer. The original draft of the report was drawn up by myself, and I should think the copy submitted to the board is in my handwriting.

And further this deponent saith not.

D. ALEXANDER.

I, J. O. Reamy, a notary public in and for Franklin county, and State of Ohio, do hereby certify that the above-named J. R. Hilliard, R. Walkup, and D. Alexander, were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the foregoing depositions by them respectively subscribed were reduced to writing by me, except the deposition of D. Alexander, which was written by him in my presence, and by all of said witnesses subscribed in my presence, and were taken at the time and place specified in the enclosed notice.

In testimony whereof, I have hereunto set my hand and official [SEAL.] seal this 11th day of July, A. D. 1856.

J. O. REAMY,
Notary Pub. in and for Franklin Co., Ohio.

Writing depositions, &c.....	$6 00
Three witnesses' fees.....	2 25
	$8 25 paid by pl'ff.

Deposition of Francis H. Ruggles, taken on the part of the complainant at the city of Albany, in the State of New York, on the 23d day of June, 1857, by Robert J. Hilton, United States commissioner in and for the northern district of New York, and which said deposition was filed in the clerk's office aforesaid, on the 25th day of June, A. D. 1857.

UNITED STATES OF AMERICA,
Northern District of New York,
City and County of Albany, ss:

Be it remembered, that on this twenty-third day of June, in the year of our Lord, one thousand eight hundred and fifty-seven, I, Robert J. Hilton, a commissioner duly appointed by the circuit court of the United States for the northern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled, 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1847, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at my office at No. 74, State street, in the city of Albany, in the northern district of New York, in the State aforesaid, Francis H. Ruggles, esq., now of the city of Albany, New York, to testify and the truth to say on the part and behalf of the complainant in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the northern district of Ohio, wherein Christian A. Gabriskie is complainant, and the Cleveland, Columbus, and Cincinnati Railroad Company and others are defendants. And the said Francis H. Ruggles, being about about the age of forty-nine years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine him, and he did thereupon depose, testify, and say as follows, viz:

Question by complainant's counsel. Were you present at a meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, convened at their office in Cleveland, Ohio, on the first day of July, A. D. 1854, at which meeting the endorsement of four hundred of the bonds of the Columbus, Piqua, and Indiana Railroad Company, of the denomination of one thousand dollars each, previously made by H. B. Paine, as the president of the Cleveland, Columbus, and Cincinnati Railroad Company, was submitted to the stockholders of said last-named railroad company for their ratification?

Answer. I was present at said meeting of stockholders of said company.

Question. *Was* you present at said meeting in the capacity of a stockholder of said company, or the representative or attorney in fact, and holding proxies of other stockholders of said company residing in the city of New York and also in Europe, whose agents resided in the city of New York; and if the latter place, state what amount of the capital stock of said company did you represent at said meeting of stockholders?

Answer. I was not a stockholder of said company, but was the attorney in fact of stockholders as mentioned in the question, and represented stock to about or nearly the sum of one million dollars, according to my best present recollection; but never knew the exact amount, for the reason that some of the stockholders, for whom I appeared and acted as attorney at said meeting, omitted to state in their proxies or opposite their signatures the amount of stock they respectively owned in said railroad company, but from information derived from the secretary of said company at said meeting, I ascertained the amount to be as above stated, about one million of dollars, and I held a proxy from and appeared and represented the above complainant, Christian A. Zabriskie, as a stockholder at said meeting.

Question. Please state the circumstances under which, and the object for which, you was deputed by said stockholders to attend the said meeting; and relate what you said and did as their attorney in fact at the said meeting—declare fully.

Answer. It was understood among the stockholders of said company residing in the city of New York, that it was the purpose of the board of directors of the said railroad company to involve the company in liabilities for other railroad companies or railroad company to a large amount, and especially for the one known as Mr. Brough's railroad, which I believe was the Atlantic and Mississippi railroad, and to which apprehended proceedings of the board of directors of said company the said New York stockholders were opposed, and I was sent as their agent and attorney to use all legal means to prevent the consummation of that scheme. I do not think that my instructions contained any particular liability which I was to oppose on behalf of said New York stockholders and agents; I now refer to written instructions in my possession, but not here present, but are at my residence in Corning, N. Y., a copy of which I will hereafter furnish. In various conversations with the said New York stockholders, and before said meeting at Cleveland, Ohio, the endorsement of the bonds of Mr. Brough's railroad was discussed and opposed; but I never heard anything about the road or about the endorsement of the Columbus, Piqua, and Indiana Railroad Company, until the meeting aforesaid at Cleveland. It was known to the stockholders whom I represented at said meeting in Cleveland, Ohio, that the said company had guaranteed the

bonds of the Cleveland and Toledo Railroad Company, and also had become interested in the Bellefontaine line of railroad, and it was their design to limit the action of the directors, in assuming liabilities for other companies, to what had been already done for those companies. My instructions strictly construed would have required me to have taken advantage of any legal objection to the consummation of contracts with these last-named railroad companies, if any such objection existed; but on the morning of the meeting I received a letter from Mr. E. B. Wesley, one of the stockholders whom I represented, and who had been the most active person in procuring me to be sent to said meeting at Cleveland, to represent the New York city stockholders and agents, in which Mr. Wesley stated it to be the wish of the parties acting with him not to repudiate any previous action of the company, but to put a stop to the policy of assuming outside obligations. In the meeting at Cleveland I exhibited my written instructions, with powers of attorney which I held, to the stockholders then and there convened in said meeting, and also stated to the said meeting the substance as above of the letter which I had received from Mr. Wesley, and that it would so far modify my action as that I would withhold my vote on the question of ratifying any proceedings of the directors. I therefore voted but once at said meeting, and that was on a resolution that the said company should subscribe for no more stock and guarantee no more bonds of other companies. I also opposed the ratification of the Columbus, Piqua, and Indiana bonds in argument, but did not vote on that question. When I stated in said meeting the substance of the letter which I had received as above mentioned from Mr. Wesley, I also stated that I did not believe that Mr. Wesley and the stockholders and agents of European stockholders acting with him, and whom I represented, had any knowledge of the endorsement or the proposed ratification of the endorsement of the Columbus, Piqua, and Indiana bonds, and I have no recollection that any one present at said meeting then or there claimed or alleged that the stockholders that I represented, or any of them, or the stockholders generally, had any such knowledge.

Question. What part did Mr. Paine, the president of said company, take in relation to the proposed ratification of the endorsement of the Columbus, Piqua, and Indiana Railroad bonds?

Answer. He advocated it actively and strongly.

Question. What remark did Mr. Witt, one of the directors of the C. C. and C. Company, make to said meeting of the stockholders to induce them to ratify the said endorsements and purchase of said stock?

Answer. He made more than one remark; he advocated the ratification of the previous action of the board of directors in the matters referred to, and at one time, during his remarks on the subject, stated that if the stockholders withheld their approbation from the acts of the board of directors, they must get a new board, and see whether they would manage business better.

Question. Do you know through whose influence or at whose request Mr. Wesley wrote you the letter you have referred to?

Answer. I do not think it was written at the particular request of any one, but he stated to me afterwards that it was in consequence of a letter that he had received from the said Mr. Witt.

Question. Who represented the Albany stockholders at said meeting, and how much in amount of the stock of said company did he represent at said meeting?

Answer. Mr. George Jones, then of the city of New York, and he represented about two hundred thousand dollars of the stock.

Question. Did Mr. Jones, in said meeting, vote to ratify the endorsement of the Columbus, Piqua, and Indiana Railroad bonds?

Answer. He did not.

Question. How did you vote on the resolution introduced at said meeting by Mr. Jones approving of the general course of the directors of the C. C. and C. Railroad Company?

Answer. I did not vote on the said resolution at all.

Question. Where is your actual residence at this time?

Answer. My residence is Corning, in Steuben county, New York, but I am now temporarily residing in the city of Albany, where I hold at present a public office. I will add that I am not a stockholder, or in any manner interested in said C. C. and C. Railroad Company, and have no interest whatever in the event of the above-entitled action.

FRANCIS H. RUGGLES.

Taken, subscribed, and sworn to before me on this 23d day of June, A. D. 1857, in the city of Albany, N. Y.

R. J. HILTON,

United States Commissioner, &c., in and for the Northern District of New York, in 2d Circuit.

UNITED STATES OF AMERICA,
Northern District of New York, Albany County and City, ss:

I, Robert J. Hilton, a commissioner duly appointed by the circuit court of the United States for the northern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, that the witness, Francis H. Ruggles, is a resident of Corning, (but temporarily of the city of Albany, in the State of New York;) and

that both and each of said places is more than one hundred miles distant from the place of trial of said action. I further certify that no notification of the time and place of taking the said deposition signed by me was made out and served on the opposite party, or his attorneys, to be present at the taking of the deposition, and to put interrogatories, if he or they might think fit, because the said adverse party does not reside within one hundred miles of the place of taking the same, nor has said adverse party any agent or attorney known to me within that distance. I further certify that on the 23d day of June, A. D. 1857, I was attended by W. S. C. Otis, esq., of counsel for complainant, and by the witness, who was and is of sound mind and lawful age, and the witness was by me first carefully examined and cautioned and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness and from his statement, and after carefully reading the same to the witness he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of mailing and returning the same by mail to the court for which the same is taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal this twenty-third day of June, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-first.

R. J. HILTON,
United States Commissioner Circuit Court of the U. S. for the Northern District of New York, in the Second Circuit.

Fees and Expenses of taking Deposition.

Witness' fees, 1 day attending	$1 50
Com'r taking and certifying deposition	5 50
Postage, estimated	0 09
Paid by complainant	7 09

R. J. HILTON,
U. S. Commissioner.

Depositions of Edward B. Wesley, Edwards Pierrepont, Mathew J. Williamson, and George Jones, taken on the part of the complainant, at the city of New York, in the State of New York, on the 29th day of June, A. D. 1857, by Joseph Bridgham, United States Commissioner in and for the southern district of the State of New York, and which said depositions were filed in the clerk's office aforesaid on the 6th day of July, A. D. 1857.

CIRCUIT COURT OF THE UNITED STATES,
for the Northern District of Ohio :

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY ET. ALS. } In equity.

SOUTHERN DISTRICT OF NEW YORK,
State, city, and county of New York, ss:

W. S. C. Otis being duly sworn, doth depose and say that he is of counsel for the complainant in the above cause, that Edwards Pierrepont, Edw'd B. Wesley, Mathew J. Williamson, and George Jones are material and necessary witnesses for the complainant in this cause, without whose testimony he cannot safely proceed to the trial of the said cause. That said witnesses reside in the southern district of New York, more than one hundred miles from the place of trial of said cause. That the defendants reside more than one hundred miles from the city of New York, where the testimony of said witnesses is to be taken, and that they have no agent nor attorney to his knowledge or belief within said distance, unless D. D. Lord, esq., or Samuel J. Beals, esq., of the city of New York, be such attorney or agent.

W. S. C. OTIS.

Subscribed and sworn to this 26th day of June, 1857, before me.
JOSEPH BRIDGHAM,
U. S. Commissioner.

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the Northern District of Ohio.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY, AND AL. } In equity.

You are hereby notified that sundry depositions will be taken by the complainant in the above entitled cause, to be used in evidence therein, at the office of Joseph Bridgham, esq., No. 9 College Place, city of New York, on the 29th day of June instant, between the hours of 9 o'clock and 30 minutes a. m. and at 5 o'clock p. m. of said day; and that the same will be continued, if need be, from day to day until the same shall be completed.

W. S. C. OTIS,
Solicitor for Compl't.

To SAMUEL J. BEALS, ESQ.
New York, June 26, 1857.

that both and each of said places is more than one hundred miles distant from the place of trial of said action. I further certify that no notification of the time and place of taking the said deposition signed by me was made out and served on the opposite party, or his attorneys, to be present at the taking of the deposition, and to put interrogatories, if he or they might think fit, because the said adverse party does not reside within one hundred miles of the place of taking the same, nor has said adverse party any agent or attorney known to me within that distance. I further certify that on the 23d day of June, A. D. 1857, I was attended by W. S. C. Otis, esq., of counsel for complainant, and by the witness, who was and is of sound mind and lawful age, and the witness was by me first carefully examined and cautioned and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness and from his statement, and after carefully reading the same to the witness he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of mailing and returning the same by mail to the court for which the same is taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal this twenty-third day of June, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-first.

R. J. HILTON,
United States Commissioner Circuit Court of the U. S. for the Northern District of New York, in the Second Circuit.

Fees and Expenses of taking Deposition.

Witness' fees, 1 day attending	$1 50
Com'r taking and certifying deposition	5 50
Postage, estimated	0 09
Paid by complainant	7 09

R. J. HILTON,
U. S. Commissioner.

Depositions of Edward B. Wesley, Edwards Pierrepont, Mathew J. Williamson, and George Jones, taken on the part of the complainant, at the city of New York, in the State of New York, on the 29th day of June, A. D. 1857, by Joseph Bridgham, United States Commissioner in and for the southern district of the State of New York, and which said depositions were filed in the clerk's office aforesaid on the 6th day of July, A. D. 1857.

CIRCUIT COURT OF THE UNITED STATES,
for the Northern District of Ohio :

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY ET. ALS. } In equity.

SOUTHERN DISTRICT OF NEW YORK,
State, city, and county of New York, ss:

W. S. C. Otis being duly sworn, doth depose and say that he is of counsel for the complainant in the above cause, that Edwards Pierrepont, Edw'd B. Wesley, Mathew J. Williamson, and George Jones are material and necessary witnesses for the complainant in this cause, without whose testimony he cannot safely proceed to the trial of the said cause. That said witnesses reside in the southern district of New York, more than one hundred miles from the place of trial of said cause. That the defendants reside more than one hundred miles from the city of New York, where the testimony of said witnesses is to be taken, and that they have no agent nor attorney to his knowledge or belief within said distance, unless D. D. Lord, esq., or Samuel J. Beals, esq., of the city of New York, be such attorney or agent.

W. S. C. OTIS.

Subscribed and sworn to this 26th day of June, 1857, before me.
JOSEPH BRIDGHAM,
U. S. Commissioner.

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the Northern District of Ohio.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY, AND AL. } In equity.

You are hereby notified that sundry depositions will be taken by the complainant in the above entitled cause, to be used in evidence therein, at the office of Joseph Bridgham, esq., No. 9 College Place, city of New York, on the 29th day of June instant, between the hours of 9 o'clock and 30 minutes a. m. and at 5 o'clock p. m. of said day; and that the same will be continued, if need be, from day to day until the same shall be completed.

W. S. C. OTIS,
Solicitor for Compl't.

To SAMUEL J. BEALS, ESQ.
New York, June 26, 1857.

Rec'd a copy of the above at No. 19 Nassau st.

SAMUEL J. BEALS,
Pro. pro. TIMOTHY CORNWALL.

June 26, 1857.

Notice.

CIRCUIT COURT OF THE UNITED STATES,
for the Northern District of Ohio:

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO. ET AL. } In equity.

Please to take notice that witnesses residing in the State of New York more than one hundred miles from the place of trial of this cause, will be examined (*de bene esse*) on the part of the complainant in the above-entitled cause, before me, (a commissioner duly appointed by the circuit court of the United States for the southern district of New York, under and by virtue of the acts of Congress in such case made and provided,) at my office, No. 9 College Place, in the city of New York, on the 29th day of June instant, at 9½ o'clock in the forenoon of that day, at which time and place you are hereby notified to be present and put interrogatories if you shall think fit.

Dated New York the 26th day of June, A. D. 1857.

Yours, &c.
JOSEPH BRIDGHAM,
United States Commissioner duly appointed by the Circuit Court of the United States for the Southern District of New York in the second circuit.

D. D. LORD, ESQ.,
Attorney, &c.

Southern District of New York, ss:

Henry C. Fairtlough, being duly sworn, doth depose and say that, on the 26th day of June instant, he served the within notice on D. D. Lord, counsellor at law, of the city of New York, by delivering a copy of said notice, between the hours of 3 and 4 o'clock p. m., to a clerk in the office of the said Lord having charge thereof; said Lord being then absent from his office, and by showing the original of said notice to said clerk.

HENRY C. FAIRTLOUGH.

Sworn to, this 27th day of June, 1857, before me.

JOSEPH BRIDGHAM,
U. S. Commissioner.

Notice.

CIRCUIT COURT OF THE UNITED STATES,
For the Northern District of Ohio:

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO., ET AL. } In equity.

Please to take notice that witnesses residing in the State of New York, more than one hundred miles from the place of trial of this cause, will be examined (*de bene esse*) on the part of the complainant in the above-entitled cause, before me, (a commissioner duly appointed by the circuit court of the United States for the southern district of New York, under and by virtue of the acts of Congress in such case made and provided,) at my office, No. 9 College Place, in the city of New York, on the twenty-ninth day of June instant, at 9½ o'clock in the forenoon of that day, at which time and place you are hereby notified to be present and put interrogatories, if you shall think fit.

Dated New York the 26th day of June, A. D. 1857.

Yours, &c.,
JOSEPH BRIDGHAM,
United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of New York in the second circuit.

SAMUEL J. BEALS, ESQ.,
19 William street.

Southern District of New York, ss:

Joseph Bridgham, of the city of New York, being duly sworn, doth depose and say that, on the 27th day of June instant, he served the within notice on Samuel J. Beals, esq., by delivering to him in person a copy of said notice, at the same time showing him the original.

JOSEPH BRIDGHAM.

Sworn to this 29th day of June, 1857, before me.
GEO. W. MORTON,
U. S. Commissioner.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK,
City, County, and State of New York, ss:

Be it remembered, that on this twenty-ninth day of June, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner duly appointed by the circuit

court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at my office, No. 9 College Place, in the city of New York, in the said southern district of New York, in the State aforesaid, Edward B. Wesley to testify and the truth to say, on the part and behalf of the complainant, in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the northern district of Ohio, wherein Christian A. Zabriskie is complainant against the Cleveland, Columbus, and Cincinnati Railroad Company, et. als., defendants, in equity; and the said Edward B. Wesley being about the age of forty-six years and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Edward B. Wesley, and he did thereupon depose, testify, and say as follows, viz:

I reside in Rye, Westchester county, State of New York, more than one hundred miles from the place of trial of this cause. I am a stock broker, and do business in the city of New York. In the summer of 1854, I was doing business in the city of New York.

Question. State whether you were at that time a stockholder in the Cleveland, Columbus, and Cincinnati Railroad Company.

Answer. I was a stockholder myself, and our firm were stockholders.

Question. State how you first became acquainted with the fact that a meeting of the stockholders of said company had been called at their office in Cleveland, to be held on the 1st day of July, 1854.

Answer. I saw it in the Times newspaper. I think the complainant and myself were together when we first noticed it.

Question. Was the object for which said meeting was called known to you or the other stockholders or agents of foreign stockholders residing in New York, who united with you in sending Judge Ruggles to Cleveland to attend said meeting on your and their behalf?

Answer. The object of the meeting was not known to me, and I presume not to others.

Question. How came you and those who acted with you in the matter to send Judge Ruggles to Cleveland to attend said meeting as your agent, attorney, or proxy; and for what purpose was he sent?

Answer. There were rumors in Wall street that this meeting was called for the purpose of procuring the endorsement of the Cleveland, Columbus, and Cincinnati Railroad Company to a large amount of the bonds of the Fort Wayne and Chicago Railroad Company, or the Mississippi and Atlantic Railroad Company, commonly known as Brough's Railroad Company. Judge Ruggles was sent for the purpose of preventing any such endorsement.

Question. What part did the complainant, Christian A. Zabriskie, take in the premises?

Answer. He was very active in getting proxies to be used by Judge Ruggles in defeating said anticipated measures, and paid a portion of Judge Ruggles' expenses to Cleveland. Mr. Zabriskie was opposed to all schemes of lending the credit of the Cleveland, Columbus, and Cincinnati Railroad Company to other companies.

Question. At the time Judge Ruggles was sent to Cleveland, did you, or those who united with you in sending him, know of the endorsement of the bonds and the purchase of the stock of the Columbus, Piqua, and Indiana Railroad Company made by Mr. Payne as the president of the Cleveland, Columbus, and Cincinnati Railroad Company?

Answer. It is my impression that I never heard of the endorsement of said bonds, nor of the purchase of said stock, until after Judge Ruggles returned from Cleveland in July, 1854. As far as I conversed with the other stockholders, they knew nothing of it. Mr. Zabriskie knew nothing of it.

Question. Did you write a letter to Judge Ruggles relative to the object of his mission while he was at Cleveland attending said meeting?

Answer. I did.

Question. Did you consult with Mr. Zabriskie, the complainant, previous to writing said letter?

Answer. No, sir.

Question. State whether Mr. Zabriskie approved or disapproved of the writing of said letter when the fact that you had written it came to his knowledge?

Answer. Mr. Zabriskie disapproved of said letter. The reason alleged by Judge Ruggles on his return for not having voted against the ratification of the endorsement of the Columbus, Piqua, and Indiana bonds, was owing to the receipt of my letter. Mr. Zabriskie disapproved of the vote and of my letter.

Question. At the time you wrote said letter to Judge Ruggles, did you know anything of the endorsement of said bonds, or the purchase of said stock?

Answer. I did not.

Question. Did you write said letter on consultation with any person; and if so, with whom; and had such person or persons any knowledge of the endorsement of said bonds, or the purchase of said stock?

Answer. Previous to writing the letter I had a conversation with Mr. Moran, of the firm of Moran Brothers, and with no other person that I recollect of. I never heard him mention and presume he knew nothing of said endorsement or the purchase of said stock. Mr. Moran is now in Europe.

Question. In neglecting to vote against the ratification of the endorsement of said bonds and the purchase of said stock, did Judge Ruggles meet the views and instructions of those who sent him to Cleveland to attend said meeting?

Answer. He did not meet my views, and Mr. Zabriskie expressed his dissatisfaction, as did several others whom I heard speak of it. My letter to Mr. Ruggles was in substance not to vote against what had been done. I referred to the annual report of January 11th, 1854, as to what had been done; that I supposed to be the liability which they had assumed.

Question. Did the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, residing in New York, and the agents of foreign stockholders, also residing in New York, approve or disapprove of the policy of endorsing the bonds and purchasing the stock of other railroad companies announced by Mr. Payne in the annual report of the directors of said company, of 11th January, 1854?

Answer. They very generally disapproved of it.

Question. What action did the stockholders of said company take at the next annual election in consequence of the adoption and avowal of such policy?

Answer. I went to Cleveland at the election of directors, in January, 1855, with sufficient proxies to make a change in the board of directors, so as to confine the action of Cleveland, Columbus, and Cincinnati Railroad Company to their own legitimate business. I represented stock to the amount of about two millions of dollars. Mr. Payne was not elected president; neither was he elected a director.

Question. In 1854 and 1855, what would have been the fair market price of the said Columbus, Piqua, and Indiana bonds, endorsed as they were, if there had been no doubt in the minds of purchasers as to the validity of said endorsement?

Answer. They would have been worth from 90 cents to par.

Question. Are you now a stockholder in the Cleveland, Columbus, and Cincinnati Railroad Company?

Answer. I am not.

EDWARD B. WESLEY.

Examination taken, reduced to writing, and by the witness subscribed and sworn, this 29th June, 1857.

Before me JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK,
City, County, and State of New York, ss:

Be it remembered, that on this 29th day of June, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner, duly appointed by the circuit court of the United States for the southern district of New York in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled, An act for the more convenient taking of affidavits and bail in civil causes pending in the courts of the United States," passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call, and cause to be and personally appear before me at my office No. 9 College Place, in the city of New York, in the said southern district of New York, in the State aforesaid, Edwards Pierrepont, to testify and the truth to say on the part and behalf of the complainant in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the northern district of Ohio, wherein Christian A. Zabriskie is complainant, against the Cleveland, Columbus, and Cincinnati Railroad Company et als. defendants, in equity; and the said Edwards Pierrepont, being about the age of forty years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Edward Pirrepont, and he did thereupon depose, testify, and say as follows, viz:

I reside in the city of New York, more than one hundred miles from the place of trial of the above cause. I am an attorney and counsellor at law, No. 16 Wall Street, city of New York.

Question. Did William Neil, of Columbus, Ohio, or any other person in his behalf, in the summer of July, 1854, call on you for your legal opinion in regard to the validity of the endorsement of the third mortgage bonds of the Columbus, Piqua, and Indiana Railroad Company by the Cleveland, Columbus, and Cincinnati, and the Bellefontaine, and Indiana, and the Indianapolis, and Bellefontaine Railroad Companies; and if yea, about what time was it?

Answer. Such application was made to me, about two years and a half ago; the precise day I cannot fix, but think it was in the autumn of 1854.

Question. Did you give an opinion upon such application; and if yea, was such opinion in favor of or against the validity of said endorsement?

Answer. As such application was purely to me as counsel, I would not feel at liberty to make any revelation of what occurred, nor of what opinion I gave; and I must therefore decline to answer the question.

Question. State whether it was not subsequently known to dealers in railroad stocks and bonds, and to those who dealt in those particular bonds in the city of New York, that you had given an opinion to Mr. Neil on such application against the validity of said endorsement?

Answer. As the answer to this question would necessarily reveal whatever opinion I did give to the client, I do not feel at liberty to answer it.

Question. Was Mr. Neil in fact a client of yours at the time such opinion was given; and did he pay you anything for your opinion after he ascertained what it was?

Answer. He was a client at, before, and ever since the time enquired of; and as to the state of accounts, and whether he paid me, I decline to answer.

Question. Did you not on Friday last say to me, that Mr. Neil or some one in his behalf did apply to you for such opinion, and that you gave an opinion unfavorable to the validity of said endorsement, and that the fact that you had given such an opinion was pretty generally known by dealers in railroad stocks and bonds in the street?

Answer. I decline to answer what I may have said to Mr. Otis, unless the question is for the purpose of contradicting or correcting some answer already given.

Question. In the interview on Friday last, did you express a willingness to testify to all you knew on the subject; and has anything arisen since that time to change your relations to the subject.

Answer. To the first branch of the question, I say not quite to the extent which the question would indicate; but I said to Mr. Otis that I saw no objection to stating all I knew about it, or that no objection occurred to me; since that nothing has occurred to change my relations; but things have been brought to my notice which make me consider it improper to give other answers than those above given.

Question. Please state what those things are?

Answer. As they are professional matters, I decline to state them.

Question. How recently have those professional matters arisen; or how recently have they been brought to your knowledge.

Answer. Just prior to the entrance of Mr. Otis in my office this morning, and which continued for some half hour when he was in the office.

Question. Do you not know, independent of the source whence the information was derived, that the validity of said endorsement of said bonds was questioned by men dealing in railroad stocks and

bonds in the city of New York during the time they were in the market for sale; and if yea, what effect had such opinion on the market price of the same?

Answer. I know the validity of the endorsement was questioned, and that with particular persons it diminished their value. As to the general market I am not familiar.

Question. Are you acquainted with Robert Bayard, and has he dealt largely in railroad stocks and bonds?

Answer. I know him well; he has been considered and I believe has been a large dealer in or holder of railroad securities.

Question. State whether he applied to you as to the validity of the said endorsement of said Columbus, Piqua, and Indiana bonds; and if yea, when was it, and what opinion did you give on the subject?

Answer. Mr. Bayard asked my opinion. I told him, that after careful examination I considered those endorsements worthless. I think it was in the autumn of 1854, but am not quite positive as to the date.

EDWARD PIERREPONT.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 29th day of June, 1857, before me,

JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA,
Southern District of New York,
City, County, and State of New York, ss:

Be it remembered, that on this twenty-ninth day of June, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at my office, No. 9 College Place, in the city of New York, in the said southern district of New York, in the State aforesaid, Mathew J. Williamson, to testify, and the truth to say, on the part and behalf of the complainant, in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the northern district of Ohio, wherein Christian A. Zabriskie, is complainant against the Cleve-

land, Columbus, and Cincinnati Railroad Company et als., defendants, in equity; and the said Mathew J. Williamson being about the age of thirty-eight years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Mathew J. Williamson, and he did thereupon depose, testify, and say as follows, viz:

I reside at Staten Island, in the State of New York, more than one hundred miles from the place of trial of this cause. I am a broker, and do business in the city of New York.

Question. For how long a period were you the secretary of the Cleveland, Columbus, and Cincinnati Railroad Company; and where did you reside during that time?

Answer. I was secretary from spring of 1849, to the spring of 1855, and resided during the whole time at Cleveland, Ohio.

Question. Were you present at the meeting of the stockholders of said company which was held at their office, in Cleveland, July 1st, 1854?

Answer. I was present as secretary of the meeting.

Question. In the number of shares of the stock of said company stated by you on the records to be represented at said meeting, did you include the proxies represented by Judge Ruggles?

Answer. I did.

Question. How was the voting done; by ballot or viva voce?

Answer. Viva voce.

Question. What part did H. B. Payne, the president of the Cleveland, Columbus, and Cincinnati Railroad Company take in regard to the ratification of the endorsement of the bonds of the Columbus, Piqua, and Indiana Railroad Company?

Answer. Mr. Payne made an address to the meeting in favor of the ratification of the endorsement, and manifested a desire to have the endorsement confirmed, inasmuch as the endorsement had already been made.

Question. Did he say anything in that address in regard to the ability of the Columbus, Piqua, and Indiana Railroad Company to pay the priucipal and interest of said endorsed bonds, and if so, what?

Answer. I cannot give his language; the import of his remarks was, that the company would be able to pay the principal and interest, and that the Cleveland, Columbus, and Cincinnati Railroad would never be called upon.

Question. What, if anything, was said at said meeting in regard to Neil & Dennison owning said endorsed bonds?

Answer. I did not hear anything said upon the subject.

Question. By what terms did Mr. Payne in said speech characterize the Columbus, Piqua, and Indiana Railroad Company?

Answer. He remarked that he should not consider it a first-class road, but he should consider it one of the best of the second class.

M. J. WILLIAMSON.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 29th day of June, 1857, before me,

JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA,
Southern District of New York, City,
County, and State of New York, ss:

Be it remembered, that on this twenty-ninth day of June, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner, duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me at my office, No. 9 College Place, in the city of New York, in the said southern district of New York, in the State aforesaid, George Jones, to testify, and the truth to say, on the part and behalf of the complainant, in a certain suit or matter of controversy now depending and undetermined in the court of the United States for the northern district of Ohio, wherein Christian A. Zabriskie is complainant, against the Cleveland, Columbus, and Cincinnati Railroad Company et als., defendants, in equity; and the said George Jones being about the age of forty-four years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said George Jones, and he did thereupon depose, testify, and say as follows, viz:

I reside in the city of New York, more than one hundred miles from the place of trial of this cause. I am a publisher.

Question. Did you attend a meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, which was held at the office of said company, at Cleveland, Ohio, on the 1st July, 1854, at which, among other things, a vote was passed ratifying the endorsement of four hundred thousand dollars of the third mortgage bonds of the Columbus, Piqua, and Indiana Railroad Company previously made by H. B. Payne, as the president of the said Cleveland, Columbus, and Cincinnati Railroad Company?

Answer. I did.

Question. Were you a stockholder in said Cleveland, Columbus, and Cincinnati Railroad Company at that time, and if yea, to what extent?

Answer. I was a stockholder, and owned ten or fifteen thousand dollars' worth. I sold some about that time, and do not remember the exact amount.

Question. Did you represent at said metting other stockholders of said Cleveland, Columbus, and Cincinnati Railroad Company as their agent, attorney in fact, or proxy; and, if yea, where did the stockholders whom you represented reside, and about what amount of stock was owned by them?

Answer. I did represent other stockholders residing in Albany and its vicincity; the amount of stock owned by them which I represented was four hundred thousand dollars, more or less. I did not represent Mr. Zabriskie, the complainant, or any of the New York stockholders.

Question. Were you at that time personally acquainted with any of the stockholders of said company residing in the city of New York who were represented at said meeting by Judge Ruggles?

Answer. I was.

Question. State under what circumstances and for what object you were deputed by the stockholders whom you represented to attend said meeting?

Answer. It was from the fact that the stockholders in Albany became aware of the intention of the directors of the Cleveland, Columbus, and Cincinnati R. Road Co. to loan the money and the credit of said company to other railroad corporations. I was sent to vote against all such projects.

Question. State whether at the time you left to go to Cleveland to attend said meeting it was known to yourself or to the stockholders whom you represented that the president of the said company had endorsed the bonds of the Columbus, Piqua, and Indiana R. Road Co.?

Answer. It was not known to me, and I have no reason to believe it was known to the stockholders whom I represented.

Question. How many days were you in Cleveland prior to the meeting?

Answer. One day.

Question. When did you first learn that Mr. Payne, the president of said company, had endorsed the bonds of the Columbus, Piqua, and Indiana R. Road Company?

Answer. At the meeting Mr. Payne made an elaborate statement of the affairs of the company, and, among other indebtedness, stated that the company had endorsed these bonds. This was the first I heard of it.

Question. Did you address said meeting in regard to the ratification of said endorsement; and, if yea, did you speak for or against the measure?

Answer. I spoke against it.

Question. Did you vote upon the resolution to ratify said endorsement; and, if so, how did you vote?

Answer. It is my impression that I did not vote on that question at all.

Question. Did Judge Ruggles vote on that resolution; and, if so, how did he vote?

Answer. I think he did not vote.

Question. What part did H. B. Payne, the president of said company, take in that meeting?

Answer. He made an elaborate speech, setting forth the causes which induced the directors to make various loans, and more especially this loan of the endorsement, and setting forth also at great length the advantages to be derived by the building of the Columbus, Piqua, and Indiana Railroad, to the Cleveland, Columbus, and Cincinnati Railroad Co.; that the action of the directors in making said endorsement was had under the presumption that it had to be done at once, or that the connection with the Columbus, Piqua, and Indiana Railroad Co. could not be had, but would be diverted to the Pennsylvania interest. He said that the Columbus, Piqua, and Indiana Railroad Company would be abundantly able to pay the principal and interest, and that there was not the least fear that the Cleveland, Columbus, and Cincinnati Railroad Co. would ever be called upon to pay any of said principal or interest.

Question. Was Mr. Witt, one of the directors of said Cleveland, Columbus, and Cincinnati Railroad Co., present at said meeting; and what statement did he make during the discussion of said proposition relative to the resignation of the board of directors, if anything?

Answer. He was present at the meeting. He did say, not in the room but outside, that he and other directors would resign if this action of the board of directors was not sanctioned by the stockholders; this was said to Mr. Ruggles and myself.

Question. State generally what course was adopted by the directors or any of them, to induce you and Judge Ruggles not to vote against the ratification of the endorsement of said bonds?

Answer. General threatenings to resign their positions, and strong appeals to us on the ground of their disinterested action in what they had done, and the great advantages to be derived to the company from said action, and assurances that they would not commit the company in this way any more without the consent of the stockholders first had and obtained.

Question. Was it known at said meeting by you and Judge Ruggles that said endorsed bonds were the property of Neil and Dennison, and not the property of the Columbus, Piqua, and Indiana Railroad Co?

Answer. It was not known to me, and I believe it was not known to Judge Ruggles; nothing was said about it at this meeting.

Question. Are you now a stockholder in the Cleveland, Columbus, and Cincinnati Railroad Co.?

Answer. I am not.

Question. What did E. S. Prosser, one of the directors of said company, publicly state at said meeting?

Answer. That the statement of Mr. Payne was the first intimation he had of the endorsement of said bonds having been made.

Question. State whether you, Judge Ruggles, Mr. Prosser, and M. B. Scott were present when the vote upon the ratification of said endorsement was taken, remained in the room or retired to an adjoining room?

Answer. I do not remember.

Question. What resolution, if any, did you offer at said meeting, and which was adopted?

Answer. I refer to the record itself. It did not and was not intended to approve of the endorsement of the said bonds.

GEO. JONES.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 29th day of June, 1857.

Before me, JOSEPH BRIDGHAM.
U. S. Com'r.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entiled, "An act in addition to an act entitled, 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby testify that the reason for taking the foregoing deposition is and the fact is the witnesses are material and necessary in the cause in the caption of the said depositions named, and that they reside more than one hundred miles from the place of trial of the within above-entitled cause. I further certify that a notification of the time and place of taking the said depositions signed by me, was made out and served on D. D. Lord, esq., counsellor at law, who had previously appeared before me on behalf of the within-named defendants, and also on Samuel J. Beals, esq., of the city of New York, to be present at the taking of said depositions, and to put interrogations if he or they might think fit, the said defendants residing more than one hundred miles from the place of caption of said depositions, and having no agent nor attorney within said distance, unless the said D. D. Lord or Samuel J. Beals be such attorney or agent. I

further certify that on the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and fifty-seven, I was attended by W. S. C. Otis, of counsel for the complainant, and by the witnesses, who were of sound mind and lawful age, and the witnessses were by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the depositions were by me reduced to writing in the presence of the witnesses, and from their statements, and after carefully reading the same to the witnesses they subscribed the same in my presence. I have retained the said depositions in my possession for the purpose of signing, sealing, and forwarding the same to the court for which the same were taken. And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in said caption.

In testimony whereof I have hereunto set my hand and seal this twenty-ninth day of June, in the year of our Lord, one thousand eight hundred and fifty-seven, and of the Independence of the United States the eighty-first.

JOSEPH BRIDGHAM, [SEAL.]
United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit of the United States of America for the southern district of New York, second circuit, do hereby certify that I am well acquainted with the handwriting of Joseph Bridgham, whose name is subscribed to the annexed depositions, certificates, &c., &c., and that the signature to the same is in his proper handwriting. And I do further certify that he was at the time of signing the same a United States commissioner, duly appointed by the circuit court of the United States of America for the southern district of New York, second circuit.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said circuit court, this twenty-ninth [SEAL.] day of June, in the year of Lord one thousand eight hundred and fifty-seven, and of the independence of these United States the eighty-first.

KENNETH G. WHITE, *Clerk.*

Deposition of Francis H. Ruggles, taken on the part of the complainant, at Corning, in the county of Steuben, State of New York, on the 7th day of July, by Charles H. Thomson, a notary public in and for the county of Steuben, State of New York, and which said deposition was filed in the clerk's office aforesaid on the 14th day of July, A. D. 1857.

IN THE U. S. C. COURT,
For the Northern District of Ohio.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY and others.

You are hereby notified that I shall take the deposition of F. H. Ruggles, esq., at his dwelling-house, in Corning, in the county of Steuben, State of New York, on the 7th day of July instant, between the hours of ten o'clock a. m. and twelve o'clock m. of the said day, to be used in evidence in the above case on behalf of the complainant.

W. S. C. OTIS,
Sol'r for Compl't.

To P. B. WILCOX, ESQ.,
For Defendants.

Cleveland, July 3, 1857.

The deposition of Francis H. Ruggles, a witness to be used in evidence in a certain action now pending in the circuit court of the United States for the northern district of the State of Ohio, wherein Christian A. Zabriskie is complainant, and the Cleveland, Columbus, and Cincinnati Railroad Company and others are defendants.

The said Francis H. Ruggles, of Corning, in the county of Steuben, and State of New York, of lawful age, being first duly sworn, deposes and says, as follows:

Question by W. S. C. Otis, solicitor for the complainant. Are you the same Francis H. Ruggles who gave a deposition in the above-entitled cause at Albany, on or about the 23d day of June last past?

Ans. I am.

Question by same. In that deposition did you refer to written instructions which you received from those stockholders in the C. C. and C. Railroad Company who deputed you to attend the meeting of said stockholders at Cleveland, on the first day of July, 1854, and did you also refer to a letter received by you on the morning of said first day of July, 1854, the contents of which you communicated to the stockholders at said meeting, said letter having been received from E. B. Wesley?

Ans. Yes.

Question by same. Have you those instructions and that letter now in your possession?

Ans. Yes.

Question by same. Did you receive proxies from other stockholders beside those whose names are attached to said instructions; and, if so, from whom did you receive such proxies, and where are such proxies?

Ans. I did receive such proxies. I cannot give the names of the stockholders from whom I received them, except the name of Mr. F. Bronson, and I think I left them at the office of said railroad Company at Cleveland.

Question by same. Did you receive additional instructions from any of the stockholders in addition to the instructions, and the letter from Mr. Wesley, before mentioned; and, if so, where are those instructions?

Ans. I received a letter of instructions from Mr. F. Bronson, which I have now in my possession, and I recollect no others except those before mentioned.

Question by same. Will you attach copies of said written instructions and of said letter of Mr. Wesley and of Mr. Bronson to this deposition?

Answer. I will. The document marked "A," and signed by the notary taking this deposition, is a copy of said written instructions, with the names of the stockholders signing the same attached thereto; the document marked "B," and signed by the notary taking this deposition, is a copy of the letter of E. B. Wesley; and the document marked "C," and signed by the notary taking this deposition, is a copy of the letter of "F. Bronson," before referred to; and further this deponent saith not.

FRANCIS H. RUGGLES.

STATE OF NEW YORK,
Steuben County, ss:

I, Charles H. Thomson, a notary public in and for said county, do hereby certify that Francis H. Ruggles was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the deposition by him subscribed was reduced to writing by myself, and was subscribed in my presence and taken at the time and place specified in the notice hereto attached.

[SEAL.] Witness my hand and official seal, at Corning, this 7th day of July, 1858.

C. H. THOMSON,
Notary Public.

Witnesses' fee	$ 50
Notary's fees	3 00
Paid by W. S. C. Otis	$3 50

"A." C. H. THOMSON,
Notary Public.

The president and directors of the Cleveland, Columbus, and Cincinnati Railroad Company having announced to the stockholders, in their recent annual report, their intention to pursue and extend the policy of guarnteeing the credit of other railroad companies, and a meeting of the stockholders having been called to be held for the transaction of business, on the first day of July proximo, at which

meeting it is understood the said policy will be a leading subject of consideration: the stockholders and representatives of stockholders hereinafter named unite in the following principles of action to be carried out at the said meeting:

To recommend that the entire resources and credit of the company be exclusively employed in promoting the legitimate business of the company and the interests of the stockholders through the means expressly provided in the charter.

To discountenance any action of the board of directors involving the company in liabilities for other corporations, or for enterprises not under their control by the terms of their charter.

To insist upon the regular and prompt division of the profits of the company among the stockholders. The recent report of the board of directors assures the stockholders that the road may be relied upon as a permanently productive property, safely to be depended upon for dividends of at least ten per cent. per annum, and while this is eminently satisfactory to the stockholders here uniting, they are of opinion that the best means for confirming this flattering assurance, is to keep the earnings of the road wholly in their own control.

And if, after increasing the equipment of the road to the highest degree of efficiency, and maintaining it with all its appointments in perfect order, the surplus earnings should exceed ten per cent. per annum, such surplus being the legitimate property of the stockholders, they will insist upon receiving the amount in dividends at judicious periods. It should be the policy of the company to retain a sufficient amount of money to provide for all the contingencies of its business, and to divide the surplus profits beyond such necessary reservation, from time to time, as such profits are ascertained. The construction account should include nothing but what properly belongs to it. All expenditures for a second track and for permanent additions to and improvements of the road, should be charged to this account and stock should be issued for the amount.

The annual report does not convey to the comprehension of the stockholders a clear understanding of the condition of the company in all particulars.

It is therefore requested that the agent sent herewith be furnished with such statements from the books of the company as he shall judge necessary.

501 shares	Christian A. Zabriskie.
250 shares	E. B. Wesley.
	W. G. Dey Ermand.
266 shares	Andrew C. Zabriskie, for C. A. Zabriskie.
50 shares	J. Oothout.
100 "	Henry Hendricks.
609 "	Moran Brothers.

1079 " in name of parties for whom they are att'ys ..... } For themselves and as att'ys for others.

William Tilden.
H. Worcester.
David Dows, for himself and as survivor of Dows & Cary, and also as ex'r of Ira B. Cary.
Jno. Kay.

377 shares in name of....
393 " in name of....
parties for whom they act at attorneys..... } N. Wesin & Co., for themselves and as attorneys for others.

99 shares.....Martin Zabriskie.

" B." C. H. THOMSON, *Notary Public.*

NEW YORK, *June 28th*, 1854.

F. H. RUGGLES, Esq.

DEAR SIR: Mr. Bronson and several others will send you proxies by mail, which you will get by calling at the post office.

The subject may come before you as to some of the past acts of the directors. All that we know of are the guarantee of some bonds of the Cleveland and Toledo railroad, and two of the Indiana roads, (Bellefontaine and Indianapolis;) but should the subject come before you to sanction any of the past acts of the directors—any of them which have merit, and all such as you would confirm, were you acting in the capacity of trustee—we wish you to vote in favor of confirming them. We do not wish to repudiate anything, but the game cannot go any further; anything in the future you must refuse. I write this at the suggestion of Mr. Morand, and has the approval of other stockholders who I have seen.

Respectfully, yours,
E. B. WESLEY.

" C." C. H. THOMSON, *Notary Public.*

NEW YORK, *June 28th*, 1854.

F. H. RUGGLES, Esq.

DEAR SIR: At the suggestion of Messrs. Wesley & Konalskie, I enclose my proxies individually and as executor to you to vote for me at the next meeting of stockholders of said company, with the instruction to vote against any advance of money by the Clev., Col., and Cin'ti to any other co., or to the endorsement by the C. C. C. Co. of the bonds or other obligations of any other company, so that the surplus earnings of the company may be solely applied to the payment of dividends to the stockholders, or to the improvement and maintenance of the road. I perceive that the company

have failed to make a cash dividend of 5 per cent. as promised by the last report. The effect of this, taken in connection with the unsatisfactory character of the last report, has reduced the stock in this market to below par; 200 shares were sold yesterday at auction at 96, and 200 shares at same price at private sale.

Respectfully, your ob. s't,

F. BRONSON.

Deposition of Jno. Brough, taken on the part of the complainant, at the city of Cleveland, in the county of Cuyahoga, and State of Ohio, on the 28th day of July, 1857, by P. Henry Smyth, a notary public in and for the county of Cuyahoga and State of Ohio, and which said deposition was filed in the clerk's office aforesaid, on the 1st day of August, A. D. 1857.

Deposition of a witness, taken to be used in an action pending in the district court of the United States for the northern district of Ohio, wherein Christian A. Zabriskie is complainant, and the Cleveland, Columbus, and Cincinnati Railroad Company is defendant, in pursuance of an agreement of the attorneys W. S. C. Otis, of counsel for complainant, and Mr. Stansberry for defendant, and at the office of the I. and B. R. R., in the city of Cleveland, Ohio, being the place agreed upon by them. The said Zabriskie, compl't, appeared by Mr. Otis, his att'y, and the said Mr. Stansberry, of counsel for defendant. And thereupon the said complainant produced the following witness, to wit: Jno. Brough, who being first duly sworn by me to testify the truth, the whole truth, and nothing but the truth, deposes as follows, to wit:

Question by Mr. Otis, for complainant. 1. For how long a period have you been the president of the Indianapolis, Pittsburgh, and Cleveland, formerly the Indianapolis and Bellefontaine Railroad Company?

Answer. I was elected president in July, 1853; resigned in February, 1855; was again elected in July, 1855, and have been president from that time to this.

Question 2. Was there a committee appointed on the part of said company to confer with a committee of the Columbus, Piqua, Indiana Railroad Company, relative to the injunction suit pending in favor of the Columbus, Piqua, and Indiana Railroad Company, against the Indianapolis and Bellefontaine Railroad Company, in the circuit court of the United States for the State of Indiana; and if so, did any conference take place between said committees?

Answer. The matters of difference between our companies were on our part committed generally to the charge of the executive committee, of which I was chairman; there was a conference proposed, I think, in February, 1854, by the Columbus, Piqua, and Indiana Company, at Columbus, Ohio; I represented the Indianapolis and Bellefontaine Company; Mr. James H. Godman, the Bellefontaine and Indiana Company; Mr. Stillman Witt, the Cleve-

land, Columbus, and Cincinnati Company. I think Mr. Walkup, Col. Samuel Medary, and I think, Joseph Ridgway, was the committee on the part of the Columbus, Piqua, and Indiana Company.

Question 3. What propositions, if any, did the committee of the Columbus, Piqua, and Indiana Company, submit to you and your associates for the purpose of terminating the difficulty between the two companies?

Answer. The principal point of controversy at that time, if not indeed the only one, was the injunction which had been obtained by the Columbus, Piqua, and Indiana Company, against the change of guage of the Indianapolis and Bellefontaine Road from four feet eight and a half to four feet ten inches; the result of our conference was, that they submitted to us two propositions, and for us to take thirty thousand dollars of their stock, at par, and loan our credit in the form of acceptances, for $30,000, carrying the same until their road should be completed and running to Union, and the same should be paid out of the proceeds of the through business; or, 2d, to take the same amount, $30,000, of stock, and pay 20,000 dollars in money, at, I think, three, six, nine, and twelve months, without interest. In consideration of this, they proposed to release the injunction against our company, and change the guage of their own road from four foot eight and a half to four foot ten inches, from Columbus to Union.

Question 4. From whom did the proposal to change the guage of the Columbus, Piqua, and Indiana road emanate; and what reason was given therefor, if any?

Answer. The proposal came from the committee of the Columbus, Piqua, and Indiana company, and they stated they were satisfied they had got the wrong guage, and it would be to their interest to change it to the Ohio guage.

Question 5. Did you accept said propositions, or either of them; and if not, state the reason why you did not?

Answer. We did not accept either of them. We made them a counter proposition, and thought they would accept that; we proposed to pay them 30,000 dollars for a release of the injunction, satisfied that they would change their guage whether we paid for it or not. That proposition was made on behalf of the Indianapolis and Bellefontaine Company, with the sanction of the other two committees, and with the tacit understanding that the amount should be paid equally by the three companies. They took our proposition under advisement, and we separated, with the understanding that they should submit it to their board, and advise us of the decision which they might arrive at.

Question 6. What next took place?

Answer. I heard nothing further from that proposition, and do not know what action was had upon it. Early in March, 1854, I think from the 5th to the 10th, as I was leaving for Illinois, I received a despatch from Notingham, then superintendent of the

road, requesting me to await at Indianapolis the arrival of Mr. Witt and Godman; they came about 9 o'clock at night, and brought the contract marked "Exhibit C," and filed with the bill in this case for my signature; they wanted it signed that evening, in order to return by the morning train; I declined to do it, until I could have a conference with some of our leading directors at Indianapolis, which was had the next morning, and under their advice I signed the contract, and immediately left for Illinois.

Question 7. Which was the first instalment of interest paid by the indorsing companies upon the indorsed bonds of the Columbus, Piqua, and Indiana Railroad Company; and were the indorsing companies secured therefor?

Answer. On the first of October, 1855, the Cleveland, Columbus, and Cincinnati, Bellefontaine and Indiana, and Indianapolis and Bellefontaine companies jointly paid the interest due that day on the 400,000 dollars of bonds guaranteed by them; for this they had a lien or mortgage executed or given to the company on 150,000 dollars of bonds of the Cambria Iron Company in Pennsylvania, which were held in trust by Mr. Guinn, of Urbana, for the Columbus, Piqua, and Indiana Railroad Company. Our lien extended to that October interest, amounting to 14,000 dollars, and no further, and was subject to other liens amounting, I think, to about 50,000 dollars.

Question 8. When was the guage of the Indianapolis and Bellefontaine railroad, between Muncie and Indianapolis, changed from four feet eight and a half inches to four feet ten inches?

Answer. During the month of April, 1854—I think between the 19th and 22d.

Cross-examination by Mr. Stansberry, counsel for Belknap and others, defendants.

Question 1. At the time of these guage negotiations, was it, in your opinion, a matter in which the C., C., and C. Company had an interest; and if so, in what way?

Answer. The C., C., and C. Company were very desirous of extending their guage through to Indianapolis, and in my judgment it was decidedly for the interest of that road that it should be done.

Question 2. Was there a rival interest in favor of 4. $8\frac{1}{2}$ inch. guage; and, if so, describe it?

Answer. There was a line of road 4. $8\frac{1}{2}$ inch. from Philadelphia to Pittsburgh; a road of the same guage projected through Virginia from Pittsburgh to Steubenville, and a road in process of construction of the same guage from Steubenville to Columbus, Ohio, and designed to connect there with the Columbus, Piqua, and Indiana Road.

Question 3. Would the continuance of the 4. $8\frac{1}{2}$ guage for the Indianapolis and Bellefontaine, and the Columbus, Piqua, and In-

diana Road, and the proposed eastern connections on the same guage, in your opinion, have operated against the business of the C., C., and C. R. Road?

Answer. If the guage of the Indianapolis and Bellefontaine Road had remained at 4. 8½, and the remainder of the line been constructed from Union east to Pittsburgh via Columbus on the same guage, it would undoubtedly have been a more favorable line for freights than the line from Indianapolis to Cleveland, with a break of guage at Union.

Question 4. What other steps had the C., C., and C. road taken to secure a change of guage to correspond with the guage of their road besides the contract marked Ex. C.?

Answer. They had taken, through their directors and officers, stock in the Bellefontaine and Indiana Road to the amount of 66,800 dollars, and also in the Indianapolis and Bellefontaine to the amount, I think, between 70,000 and 90,000 dollars, and they endorsed 200,000 dollars of income bonds of the Bellefontaine and Indiana Road; they made a contract to furnish their proportion of freight cars for the through business between Indianapolis and Cleveland, but never carried it out; none of these subscriptions and endorsements had anything to do with the guage question, except the subscription to the stock of I. and B. Road; that was upon condition of the guage.

Question 5. In your opinion as a railroad man, is it ordinarily useful and necessary to a railroad to establish running connections and arrangements with other roads?

Answer. I should consider it very important to their through business to do so.

Question 6. Is it a common practice for railroads to enter into those arrangements, and to furnish aid to each other in order to bring them about?

Answer. It is a common practice for roads to make these arrangements. I know of some cases in which aid has been furnished, sometimes by loan of rolling stock, sometime by endorsing bonds, sometimes by loans of money, and sometimes by subscription to stock, but I cannot say the practice is a general one.

Question 7. Was the guarantee of the bonds in question a matter of notoriety in the city of New York about the time, or shortly after it was made?

Answer. During the summer or fall after it was made Mr. Neil had the bonds in market, and made publication in the form of a circular, or notice of some kind, stating the fact of the guaranty, as an additional evidence of the value of the bonds. I was frequently enquired of in New York with regard to the guarantee, and I as often expressed my opinion about it to those who inquired of me. It was a matter generally known in Wall street that the bonds were guarantied.

Question 8. Was Mr. Stillman Witt a director in the C., C.,

and C. Co. at the time of this guage arrangement with the contract touching the same; and, if so, was he in favor of the same, and active in bringing them about?

Answer. Mr. Witt was a director in the C., C., and C. road at that time. I know nothing as to his agency in the making of the contract, excepting that he brought the contract to Indianapolis for my signature, and expressed himself in favor of it.

Re-examination by Mr. Otis for the complainant.

Question 1. Was not Mr. Witt also a large stockholder; also a director, and a member of the executive committee of the Indianapolis and Bellefontaine R. R. Co. at that time?

Answer. He was.

Question 2. Was Mr. Witt also a stockholder in the Bellefontaine and Indiana Road at that time?

Answer. He was a small stockholder, probably from two to three thousand dollars.

Question 3. Has not the practice referred to by Mr. Stansberry in his 6th interrogatory, and in your answer thereto, been in your opinion as a railroad man, greatly prejudicial to the interests of the stockholders of the companies furnishing the aid?

Answer. I think in a large majority of cases it has been an injury rather than a benefit has resulted from it. I cannot now remember an instance where the benefit has been equal to the liability in my judgment.

Question 4. What means have you of knowing that it was generally known in Wall Street that the bonds of the Columbus, Piqua, and Indiana Railroad had been guarantied, except from the enquiries made of you in regard to the guaranty?

Answer. I have no means of knowing only those which I have already stated, which were the circular and the enquiries made of me.

Question. Now state the opinion which you expressed to those who enquired of you respecting the guaranty?

(Objected to by Mr. Stansberry.)

Answer. Whenever I did express an opinion upon the subject, which I did in cases of enquiry only, it was that the act of guaranty was in my judgment illegal and not binding upon my own company. I do not know that I generally gave reasons for my opinion, but when I did so, it was that my company had no power to do the act. I did not speak for the C., C., and C. Road, for I had not examined the question as to that road.

Question 6. Did you sign the guaranty upon the bonds of the Columbus, Piqua, and Indiana Road as the president of the Indianapolis and Bellefontaine Road?

Answer. I did not. I was absent from home at the time, and the guaranty was signed by the vice president.

Question 7. Had not the market value of the stock of the B. and I. Road become greatly depreciated prior to July 1st, 1854?

Answer. I do not recollect how it was.

Question 8. Did you see more than one circular published by Mr. Neil, and was not that circular dated in March, 1855, and was it like the one made an exhibit by the defendants, who are bondholders, in this case?

Answer. I do not recollect of seeing more than one circular signed by Mr. Neil, and my memory does not furnish the date. I have no doubt but the exhibit furnished me is a copy of that circular, and which is dated March 22d, 1855, and is attached to the answer of the defendants.

Question 9. What effect would the completion of the Columbus, Piqua, and Indiana Railroad have upon the business of the C., C., and C. Road?

Answer. In my judgment it would impair the business of the C., C., and C. Road, and also B. and I. Road.

Question 10. When Mr. Witt brought you the contract marked exhibit "C," for your signature, did you express any opinion to him relative to the legality of the proposed endorsement of the C. P. and I. bonds; and if so, what was that opinion?

Answer. I do not think I did express any opinion to him on the question of legality.

Question 11. What effect would the completion of the Columbus, Piqua, and Indiana Road have upon the business of the I. and B. Road?

Answer. It would open up a direct connection to Columbus, and add very largely to their business. It would in my judgment be worth 100,000 dollars a year to the I. and B. Road.

Cross-ex'd.

Quest. 1. You say the completion of the C. P. and I. road would impair the business of the C., C., and C. road: would that injury be increased or lessened by a common guage for both roads?

Answer. If the guage of the I. and B., and of the C., P., and I., had not been changed, and the eastern roads had been built of the projected guage, of 4. 8½, the injury would have been greater than by the change of guage to 4. 10, but not materially so.

Quest. 2. Did you, when you made the offer of $30,000 for a change of guage, believe that your company had power to use its money for that purpose?

Answer. I acted on the ground that the charge of freights on our road was costing us from $12 to 20,000 per year, and that we would be justified in ridding ourselves of that expense by paying the money; I don't think I considered the question of legality at that time.

Quest. 3. Did you not rid yourselves of that expense by the guarantee?

Answer. We did.

Quest. 4. What distinction do you take between the power to pay money for a change of guage, and the power to effect the same object by a subscription of stock or guaranty of bonds?

Answer. I doubt the legality of both.

Quest. 5. Did you stand alone in that opinion in your board of directors?

Answer. I believe I did.

Quest. 6. Would you now be willing to return the stock you subscribed for, withdraw from the guaranty, and be compelled to change back and keep your guage at 4. 8½?

Answer. It would not be a desirable policy for our road to change back their guage; but I think the amount paid was too great—I mean they made too hard a bargain with us; I limit my answer to the I. and B. road.

Quest. 7. Have you, as pres't of your road, voted on the stock you subscribed for in the C., P., and I. road?

Answer. At the annual election of 1856, of the C., P., and I. road, I sent a proxy to vote that stock.

Quest. 8. Does your road still own this stock?

Answer. Yes.

Re-ex'd by Mr. Otis.

Quest. Would you not have rid your road of the guage difficulty, and the expense attending it without the guaranty, by a little delay, so as to have ascertained the true condition of the C., P., and I. Co.?

Answer. I have no doubt, if we could have established the insolvency of the C., P., and I. Co. on a final hearing of the injunction that it would have been dissolved.

By Mr. Stansbery. Quest. Did the counsel for your company concur in the opinion you have last expressed?

Answer. I think he did not consider it a strong point in the way that it stood at that time; Neil, Dennison, and Mitchel had so covered up the condition of the company that we could not get at it.

By Mr. Otis. Did you know who owned the bonds at the time the contract was made; and if you had known they belonged to Neil and Dennison, would you have made the contract?

Answer. We supposed the bonds belonged to the company. If it had been known they had been sold to Neil and Dennison at a low price, I don't think the contract would have been made. I know I should not have signed it.

JNO. BROUGH.

I, P. Henry Smith, a notary public within and for the county of Cuyahoga and State of Ohio, do hereby certify that the above-named Jno. Brough, whose name is subscribed to the foregoing deposition, was by me first duly sworn to testify the truth, the whole truth, and

nothing but the truth, in the case aforesaid, and that the deposition by him subscribed was reduced to writing partly by me and partly by Mr. Stansbery, of counsel for the defendants in this cause; that the said deposition was so reduced to writing and subscribed by the said Brough in my presence, and the same was taken on the 28th day of July, 1857, at the office of the I. and B. R. R., in the city of Cleveland, Ohio, as per agreement of the parties by their counsel.

P. HENRY SMYTH, [SEAL]
Notary Public, in and for said County and State.

Notary's fees, $3 94/100.

Depositions taken on the part of the defendants.

Depositions of Christopher S. Toppan, Mathew Vassar, James Hooker, Morgan Carpenter, William D. Thompson, Samuel J. Beals, and Herman Marcuse, taken on the part of the defendants, on the 2d and 3d days of April, 1857, in the city of New York, and State of New York, by Joseph Bridgham, a commissioner of the United States in and for the southern district of New York, and which said depositions were filed in the clerk's office aforesaid, on the 10th day of April, A. D. 1857.

Pending in the circuit court of the U. S. for the 7th circuit and northern district of Ohio.

CHRISTIAN A. ZABRISKIE, plaintiff,
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY, JOHN A. BUTLER, THOMAS BELKNAP, AND W. H. D. CALLENDER. } In chancery.

SIR: Take notice that an examination of witnesses will be taken in this action, before Joseph Bridgham, esq., U. S. commissioner, at the office of D. D. Lord, 82 Merchants' Exchange, in the city of New York, on the 2d of April next, at 3 o'clock p. m., said examination to be continued from day to day until completed. You are further notified to attend to put questions to the witnesses if you see fit to do so.

Yours, truly,
D. D. LORD,
For THOMAS EWING &
HENRY STANBURY,
Solicitors for Respondents.

C. A. ZABRISKIE, esq.,
85 west 21st street.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

George W. Wingate, of the city and county of New York, being duly sworn, saith, that on the thirtieth day of March, 1857, he served a notice, of which the within is a true copy, on C. A. Zabriskie, esq., the plaintiff herein, by delivering to and leaving the same with a person of suitable age and discretion, in, and having care of his house, No. 85, West 21st st., under cover, and directed to said plaintiff, as follows: C. A. Zabriskie, No. 85 West 21st street, New York.

GEORGE W. WINGATE.

Sworn to before me, April 2d, A. D. 1857.

JOSEPH BRIDGHAM,
U. S. Com'r.

Due service of a notice, of which the within is a copy, is hereby admitted. March 30th, 1857.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK,
City, County, and State of New York, ss:

Be it remembered, that on this second day of April, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at office No. 82 Merchants' Exchange, in the city of New York, in the said southern district of New York, in the State aforesaid, Christopher S. Toppan, to testify and the truth to say, on the part and behalf of the respondents in a certain suit or matter of controversy in chancery, now depending and undetermined in the circuit court of the United States for the 7th circuit and northern district of Ohio, in the district aforesaid, wherein Christian A. Zabriskie is plaintiff against the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender, respondents; and the said Christopher S. Toppan being about the age of fifty-six years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Christopher S.

Toppan, and he did thereupon depose, testify, and say as follows, viz: I reside at Portsmouth, New Hampshire, more than one hundred miles from the place of trial of this cause. I have bought bonds of the Columbus, Piqua, and Indiana Railroad Company. These bonds were dated 1st April, 1854, each for the sum of one thousand dollars, and payable 1st day of April, 1869. These bonds are endorsed with the guarantee of the Bellefontaine and Indiana Railroad Company, the Indinapolis and Bellefontaine Railroad Company, and the Cleveland, Columbus, and Cincinnati Railroad Company. I bought twelve of these bonds at eight hundred and fifty dollars per bond. I know of other of these bonds purchased by other persons beside myself. There were twenty-one bonds purchased by the Piscataqua Exchange Bank, and five by William M. Schacleford as trustee. These bonds were bought at the same time and same rate as my own. They were bought in July, 1854. The prices at which they were bought were full prices for the bonds. That, I presume, was the market rate. I knew nothing of the credit or solvency of the Columbus and Piqua Company when I bought them. I bought them entirely on the credit of the guarantee of the Cleveland, Columbus, and Cincinnati Railroad Co. endorsed on them. I never had any suspicion of the validity of the bonds, nor of the guarantees endorsed upon them. Previous to making my purchase, I think I saw a printed copy of a preamble and resolution passed on the 1st of July, 1854, at a meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company; a copy of said preamble and resolution is now shown to me and is marked for identification, as "Exhibit No. 1," I. B. I was also otherwise informed that a resolution similar in purport to that contained on "Exhibit No. 1" had been passed at a meeting of the stockholders.

C. S. TOPPAN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 2d day of April, 1857, before me.

JOSEPH BRIDGHAM,
U. S. Commissioner.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK,
City, County, and State of New York, ss:

Be it remembered, that on this second day of April, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress en-

titled, "An act in addition to an act entitled, 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at office No. 82 Merchants' Exchange, in the city of New York in the said southern district of New York, in the State aforesaid, Mathew Vassar, to testify and the truth to say, on the part and behalf of the respondents in a certain suit or matter of controversy in chancery, now depending and undetermined in the circuit court of the United States for the seventh circuit and northern district of Ohio, in the district aforesaid, wherein Christian A. Zabriskie is plaintiff against the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender, respondents; and the said Mathew Vassar being about the age of sixty-five years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Mathew Vassar, and he did thereupon depose, testify, and say as follows, viz:

I reside at the city of Poughkeepsie, in the State of New York, more than one hundred miles from the place of trial of this cause. I bought bonds of the Columbus, Piqua, and Indiana Railroad Company. These bonds were dated April 1st, 1854, payable April 1st, 1869, with coupons attached, interest payable semi-annually. I exchanged ten one thousand-dollar six per cent. bonds of the New York Central Railroad Company, then worth 85 or 86 per cent. in the market, for an equal number of the seven per cent. bonds of the same amount of the Columbus, Piqua, and Indiana Railroad Company, guaranteed by the Bellefontaine and Indiana Railroad Company, by the Indianapolis and Bellefontaine Railroad Company, and by the Cleveland, Columbus, and Cincinnati Railroad Company. This exchange took place in July, 1854. The market value at that time of the New York Central Railroad was from 85 to 86 per cent., with the accrued interest. The Columbus, Piqua, and Indiana bonds were selling at that time at about the same price, and were third mortgage bonds. I made the exchange of these bonds entirely on the guarantee of the Cleveland, Columbus, and Cincinnati Railroad Company endorsed thereon, and I considered them quite as safe as the New York Central Railroad bonds, which I gave in exchange for them. I made the exchange as a permanent investment. I had no knowledge of the solvency or the credit of the Columbus, Piqua, and Indiana Railroad Company, and had no doubt of the validity of the bonds of the said company, nor of the guarantee endorsed on them. I was a stockholder in the Bellefontaine and Indiana Railroad to the amount of ten thousand dolars at the time of the exchange aforesaid, and am still a stockholder to the same amount.

MATHEW VASSAR.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 2d day of April, 1857, before me.

JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA,
Southern District of New York,
City, County, and State of New York, ss:

Be it remembered, that on this second day of April, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner, duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at No. 82 Merchant's Exchange, in the city of New York, in the said southern district of New York, in the State aforesaid, James Hooker, to testify, and the truth to say, on the part and behalf of the respondents, in a certain suit or matter of controversy in chancery now depending and undetermined in the circuit court of the United States for the 7th circuit and northern district of Ohio, in the district aforesaid, wherein Christian A. Zabriskie is plaintiff, against the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender, respondents. And the said James Hooper being about the age of sixty-four years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said James Hooper, and he did thereupon depose, testify, and say as follows, viz:

I reside at Poughkeepsie, in the State of New York, more than one hundred miles from the place of the trial of this cause. I exchanged ten one thousand dollar six per cent. bonds of the New York Central Railroad Company, then worth eighty-five or eighty-six per cent. in market, for an equal number of the seven per cent. bonds of the same amount of the Columbus, Piqua, and Indiana Railroad Company, guaranteed by the Bellefontaine and Indiana Railroad Company, by the Indianapolis and Bellefontaine Railroad Company, and by the Cleveland, Columbus, and Cincinnati Railroad Company. These bonds were for one thousand dollars each, dated April 1st, 1854, and payable April 1st, 1869, with coupons attached, interest payable semi-annually. This exchange was made

in June or July, 1854. The market rate of the New York Central railroad six per cent. bonds was about 85 or 86 per cent., and I supposed that the Columbus, Piqua, and Indiana bonds stock was at about the same rate. These bonds of the Columbus, Piqua, and Indiana Railroad Company were third mortgage bonds. My inducement to the exchange was, that I thought the guarantee of the Cleveland, Columbus, and Cincinnati Railroad Company made them equally safe with the New York Central railroad bonds as a permanent investment. I knew nothing in particular as to the solvency or credit of the Columbus, Piqua, and Indiana Railroad Company. I had no suspicion of the validity either of the bonds of the Columbus, Piqua, and Indiana Railroad Co., nor of the guarantees aforesaid indorsed upon them. I was, at the time of the exchange aforesaid, and still am, a stockholder in the Cleveland, Columbus, and Cincinnati Railroad Company to an amount over ten thousand dollars.

JAMES HOOPER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 2d day of April, 1857, before me,

JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA,
Southern District of New York, City,
County, and State of New York, ss:

Be it remembered, that on this Second day of April, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridghan, a commissioner, duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me at office No. 82 Merchants' Exchange, in the city of New York, in the said southern district of New York, in the State aforesaid, Morgan Carpenter, to testify, and the truth to say, on the part and behalf of the respondents, in a certain suit or matter of controversy in chancery, now depending and undetermined in the circuit court of the United States, for the 7th circuit and northern district of Ohio, in the district aforesaid, wherein Christian A. Zabriskie is plaintiff, against the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and

W. H. D. Callender respondents; and the said Morgan Carpenter being about the age of sixty-one years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Morgan Carpenter, and he did thereupon depose, testify, and say as follows, viz:

I reside in Poughkeepsie, in the State of New York, more than one hundred miles from the place of trial of this cause. I have bought bonds of the Columbus, Piqua, and Indiana Railroad Company. These bonds were dated 1st day of April, 1854, each for the sum of one thousand dollars, and payable in the year 1869, on the 1st day of April of that year. These bonds are guarantied by the Bellefontaine and Indiana Railroad Company, by the Indianapolis and Bellefontaine Railroad Company, and by the Cleveland, Columbus, and Cincinnati Railroad Company. I bought thirteen of these bonds in July, 1854. I bought them at eight hundred and fifty dollars for each bond. I knew nothing of the solvency or credit of the Columbus and Piqua Railroad Company when I bought them. I bought them entirely on the credit of the guarantee of the Cleveland, Columbus, and Cincinnati Railroad Company endorsed upon them. I had no suspicion that the bonds or endorsements were not valid.

MORGAN CARPENTER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 2d day of April, 1857.

Before me, JOSEPH BRIDGMAN,
U. S. Com'r.

Pending in the circuit court of the U. S. for the 7th circuit and northern district of Ohio.

CHRISTIAN A. ZABRISKIE, pl'ff.
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY, JOHN A. BUTLER, THOMAS BELKNAP, AND WM. H. D. CALLENDER. } In Chancery.

SIR: Take notice that the examination of witnesses, of which you were heretofore notified, was proceeded in and will be continued on the 3d April instant, at ½ past 3 o'clock p. m., before Joseph Bridgham, esquire, at 82 Merchants' Exchange. New York, April 2, 1857.

Yours, resp'y,

D. D. LORD,
For BACKUS & NOBLE,
Sol's for Def'ts.

To C. A. ZABRISKIE, esq.,

I admit service of a copy of the within notice, April 2, 1857.
C. A. ZABRISKIE.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK,
City, County, and State of New York, ss:

Be it remembered, that on this third day of April, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled, 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at office, No. 82 Merchants' Exchange, in the city of New York, in the said southern district of New York, in the State aforesaid, William D. Thompson, to testify and the truth to say, on the part and behalf of the respondents in a certain suit or matter of controversy in chancery, now depending and undetermined in the circuit court of the United States for the seventh circuit and northern district of Ohio, wherein Christian A. Zabriskie is plaintiff against the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender, respondents; and the said William D. Thompson being about the age of fifty-nine years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said William D. Thompson, and he did thereupon depose, testify, and say as follows, viz:

I reside in the city of New York, more than one hundred miles from the place of trial of this cause. I have bought bonds of the Columbus, Piqua, and Indiana Railroad Company. These bonds were dated April 1st, 1854, for one thousand dollars each, payable the 1st of April, 1869. I bought fifteen of them early in February, 1855. These bonds were endorsed with the guarantee of the Bellefontaine and Indiana Railroad Company, by Indianapolis and Bellefontaine Railroad Company, and by the Cleveland, Columbus, and Cincinnati Railroad Company. I paid for the fifteen bonds seven hundred dollars for each, besides the accrued interest. That I considered the full price of first-class securities at that time, I mean of railroad securities. The market was depressed at that time from various causes, the effect of the Schuyler fraud was felt at that time, and money was difficult to get. I bought the first-class

securities at about the same or lower rates at that time. I was induced the buy the bonds in consequence of the guarantees endorsed on them, and especially that of the Cleveland, Columbus, and Cincinnati Railroad Company. I had no such confidence in Columbia, Piqua, and Indiana Railroad Company, as would have induced me to take these third mortgage bonds without a good and sufficient guarantee of their payment. I had no suspicion whatever that the bonds or the guarantee endorsed on them were invalid. A copy of the resolution and preamble passed at a meeting of stockholders on the 1st July, 1854, a copy of which is now shown me, being the same paper marked Exhibit No. 1, was shown to me previous to my purchase.

WM. D. THOMPSON.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 3d day of April, 1857, before me.

JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA,

Southern District of New York,
City, County, and State of New York, ss:

Be it remembered, that on this third day of April, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled, 'An act for the more convenient taking of affidavits and bail in civil causes depending in the conrts of the United States,'" passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at office No. 82 Merchants' Exchange, in the city of New York, in the said southern district of New York, in the State aforesaid, Samuel J. Beals to testify and the truth to say, on the part and behalf of the respondents, in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the 7th circuit and northern district of Ohio, wherein Christian A. Zabriskie is plaintiff against the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender respondents; and the said Samuel J. Beals being about the age of forty-seven years and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter

of controversy aforesaid, I did carefully examine the said Samuel J. Beals, and he did thereupon depose, testify, and say as follows, viz:

I reside in the city of New York, more than one hundred miles from the place of trial of the above-entitled cause. I have bought and sold bonds of the Columbus, Piqua, and Indiana Railroad Company, third mortgage bonds. They were bonds dated April 1st, 1854, each for the sum of one thousand dollars, payable April 1st, 1869. They were endorsed with the guarantee of the Bellefontaine and Indiana Railroad Company, by the Indianapolis and Bellefontaine Railroad Company, and by the Cleveland, Columbus, and Cincinnati Railroad Company. I sold them at about 75 in the months of April and May, 1855. That was the fair market rate of first class of railroad securities of undoubted responsibility at that time. I had then and now have a certified copy of a resolution and preamble passed by the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company July 1, 1854, which was handed to me by Elias Fassitt for my satisfaction and the satisfaction of those who might wish to purchase the said bonds; said resolution and preamble is the same which has been heretofore shown to witnesses in this examination, as identified as Exhibit No. 1, J. B., and is now produced and annexed to this my deposition. Those bonds I sold were bonds which I had purchased. I have purchased at different times a hundred and five thousand dollars' worth of those bonds. I am not now the owner of any of said bonds. I have disposed of all of them. I bought all of these bonds solely on the credit of the guarantee of the Cleveland, Columbus, and Cincinnati Railroad Company endorsed on them. The inducement with purchasers of these bonds from me was the guarantee of this company. This guarantee and nothing else gave the bonds currency. No suspicion existed in my own mind, or so far as I know in that of others, as to the validity of the bonds, or of the guarantee endorsed thereon. I showed to persons about to purchase, both from me and others, the copy of the resolution and preamble aforesaid.

SAMUEL J. BEALS.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 3d day of April, 1857, before me.

JOSEPH BRIDGHAM,
U. S. Com'r.

Exhibit No. 1.

CLEVELAND, *July* 1, 1854.

At a meeting of the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, held at the office of the company in Cleveland this day, pursuant to a call of the board of directors, dated June 16, 1854, capital stock to the amount 18,984 shares being represented—

W. B. Hubbard, esq., of Columbus, was called to the chair, and M. J. Williamson appointed secretary.

On motion, the following resolution was unanimously adopted, viz:
Resolved, That the endorsement, jointly or severally, with the Bellefontaine and Indiana and the Indianapolis and Bellefontaine Railroad Companies of $400,000 of the 3d mortgage bonds of the Columbus, Piqua, and Indiana Railroad Company, by order of the board March 6, 1854, be, and the same is approved, adopted, and sanctioned by this meeting as the proper act of this company.

(Signed) W. B. HUBBARD,
Ch'n.

(Signed) M. J. WILLIAMSON,
Sec'y.

I certify the above to be a true copy from the minutes of the meeeting.

[SEAL.] M. J. WILLIAMSON, *Sec'y*
C., C., & C. R. R. Co.

Identified and testified to in the annexed deposition taken before me.

JOSEPH BRIDGHAM,
U. S. Commissioner.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK,
City, County, and State of New York, ss:

Be it remembered, that on this third day of April, in the year of our Lord one thousand eight hundred and fifty-seven, I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at office No. 82 Merchants' Exchange, in the city of New York, in the said southern district of New York, in the State aforesaid, Herman Marcuse, to testify, and the truth to say, on the part and behalf of the respondents in a certain suit or matter of controversy in chancery, now depending and undetermined in the circuit court of the United States for the seventh circuit and northern district of Ohio, wherein Christian A. Zabriskie is plaintiff against the Cleveland, Columbus, and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender, respondents; and the said Herman Marcuse

being about the age of thirty-two years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Herman Marcuse, and he did thereupon depose, testify, and say as follows, viz:

I reside in the city of New York, more than one hundred miles from the place of trial of the above-entitled cause. I have both bought and sold bonds of the Columbus, Piqua, and Indiana Railroad Company, third mortgage bonds. These were bonds dated April 1, 1854, each for the sum of one thousand dollars, payable April 1st, 1869. They were endorsed with the guarantee of the Bellefontaine and Indiana Railroad Company, the Indianapolis and Bellefontaine Railroad Company, and the Cleveland, Columbus, and Cincinnati Railroad Company. I sold them in May, 1855, at seventy-seven and a half. This was the market value at that time of first-class railroad securities of undoubted responsibility. Mr. Beals sent to me a certified copy of a preamble and resolution passed by the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company, passed July 1, 1854. "Exhibit No. 1, I. B," now shown to me and annexed to the deposition of Samuel J. Beals, is either the same one, or in every respect similar to the one sent to me. It was on the strength of this resolution and preamble that I bought and sold the said bonds. The inducement to me to purchase, and that which I held out to my friends and purchasers, was the guarantee of the Cleveland, Columbus, and Cincinnati Railroad Company endorsed on said bonds. I sold at different times about fifty thousand dollars' worth of these bonds. I am not now the owner of any of said bonds. The inducement to myself to purchase said bonds, and the inducement to purchasers of said bonds from me was the guarantee of the Cleveland, Columbus, and Cincinnati Railroad Company on them. Their currency and value mainly depended upon the guarantee of the said company. No suspicion existed in my own mind, or in that others, to my knowledge, as to the validity of the bonds themselves, or of the guarantees endorsed on them.

HERMAN MARCUSE.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 3d day of April, 1857, before me,

JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Joseph Bridgham, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled, "An act for the more convenient taking of affidavits

and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled, "An act in addition to an act entitled, an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled, "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing depositions is, and the fact is, the witnesses are material and necessary in the cause in the caption of the said depositions named, and that they reside more than one hundred miles from the place of trial of the within-named cause. I further certify that a notification of the time and place of taking the said depositions was made out and served on the opposite party to be present at the taking of the said depositions, and to put interrogatories, if he or they might think fit. I further certify that on the second and third days of April, in the year of our Lord one thousand eight hundred and fifty-seven, I was attended by D. D. Lord esq., on the part of the respondents, and by the witnesses who were of sound mind and lawful age, and the witnesses were by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the depositions were by me reduced to writing in the presence of the witnesses, and from their statements, and after carefully reading the same to the witnesses, they subscribed the same in my presence. I have retained the said depositions in my possession for the purpose of signing, sealing, directing, and forwarding the same to the court for which the same was taken. And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in said caption.

In testimony whereof I have hereunto set my hand and seal this sixth day of April, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-first.

JOSEPH BRIDGHAM, [SEAL.]

United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit of the United States of America for the southern district of New York, second circuit, do hereby certify that I am well acquainted with the handwriting of Joseph Bridgham, whose name is subscribed to the annexed paper writings, and that the signature to the same is in his proper handwriting. And I do further certify that he was at the time of signing the same a United States commissioner, duly appointed by

the circuit court of the United States of America for the southern district of New York, second circuit.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said circuit court, this sixth day of [SEAL.] April, in the year of Lord one thousand eight hundred and fifty-seven, and of the independence of these United States the eighty-first.

KENNETH G. WHITE, *Clerk.*

Deposition of A. Stone, jr., taken on the part of the defendants at the city of Columbus, in Franklin county, and State of Ohio, on the 4th day of June, A. D. 1857, by Lorenzo English, mayor of the said city of Columbus, and which said deposition was filed in the clerk's office of said court, on the 5th day of June, A. D. 1857.

UNITED STATES OF AMERICA,
State of Ohio, Franklin County, City of Columbus, ss:

The deposition of A. Stone, jr., taken before me, Lorenzo English, mayor of the said city of Columbus, at the office of P. B. Wilcox, esq., in said city, on the 4th day of June, A. D. 1857, to be read in evidence on the part of John A. Butler, Thomas Belknap, and W. H. D. Callender, defendants, in a suit of chancery now pending in the circuit court of the United States in and for the northern district of Ohio, wherein Christian A. Zabriskie, is plaintiff, and the Cleveland, Columbus, and Cincinnati Railroad Company and others, are defendants.

The said A. Stone, jr., of lawful age, being first duly sworn, in answer to the following interrogatories, says:

First interrogatory by said defendants. 1. Please state your connection with the Cleveland, Columbus, and Cincinnati Railroad Company, in April, 1854, at the time the contract was made for indorsing the bonds in controversy in this suit?

Answer. I was at that time one of the directors and a stockholder.

Question 2d. Please state how large an amount of stock you held at that time?

Answer. I am not certain, but my impressions are that it exceeded one hundred thousand dollars.

3d. Please state who, in behalf of the Cleveland, Columbus, and Cincinnati Railroad Co., took the principal part in the negotiating and in completing the indorsement of said bonds?

Answer. Mr. Payne was president, and took the leading part in it; and I understood that the arrangement was understood by and co-operated in by all the other directors.

4th. Please state, as near as you can, how early the negotiations commenced?

Answer. Negotiations were commenced relative to the guage earlier than February, 1854, but the plan which was afterwards car-

ried out was suggested, I think, about the 5th or 6th of February, 1854.

5th. Please state the inducements and the consideration which lead to and formed the basis of the indorsement of said bonds by the Cleveland, Columbus, and Cincinnati Company?

Answer. The principal inducements and consideration, first, were the change of the guage of the Indianapolis and Bellefontaine road, from four feet eight and one-half inches to four feet ten inches, which would give a uniform guage to Indianapolis, and which, if accomplished, Mr. Brough, president, assured us that the guage should be made the same through to St. Louis. Second. That the Piqua road should be changed to the same guage, a connection formed at Columbus, and the road completed through, if the endorsements were made. Third. That the guage of the road down the Scioto valley should be the same. Fourth. The breaking up of a combination in Pennsylvania to force the 4 feet 8½ inch guage through the State of Ohio generally.

6th. Please state whether the Piqua Company, at the time of said indorsement, was in need of aid in the construction of its road?

Answer. I understood that it was.

7th. Please state, at the time of said negotiation and the indorsement of said bonds, what, if anything, was the understanding between the parties in interest and their respective agents, in relation to the aid that the Piqua Company would derive towards the construction of its road by the additional credit given to their bonds by virtue of the indorsement, as made by the Cleveland, Columbus, and Cincinnati Company?

Answer. It was understood that the Piqua Co., by adopting the Ohio guage together with the aid derived from the indorsement of the bonds, would enable the Piqua Co. to carry its road through.

8th. Please state whether the indorsement of said bonds, after the same was made, was a matter understood and fully talked of among the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Co.?

Answer. It was.

9th. Please state whether, after the indorsement was made, and how long afterwards, you had any conversation with the plaintiff in this case in regard to the indorsement; and whether one or more of such conversations?

Answer. I think I had a conversation with him before the confirmation by the stockholders, and had several conversations with him during the years 1854 and 1855. The plaintiff and myself were on the excursion trip to the celebration given at the opening of the Rock Island and Chicago Railroad Co., from Chicago to St. Paul, and either on his way out, or on his return, he stayed a day or two days in Cleveland; this was between the time of the indorsement of the bonds and the confirmation by the stockholders. My impressions are that the plaintiff was advised of the indorsement at the time of said excursion.

10th. Please state whether, in your judgment at that time, the Cleveland, Columbus, and Cincinnati Railroad Co. under the contract were to receive a full consideration for the indorsement?

Answer. It was, in my judgment; and further this deponent saith not.

A. STONE, JR.

UNITED STATES OF AMERICA,
State of Ohio, Franklin County,
City of Columbus, ss:

I, Lorenzo English, mayor of said city of Columbus, do hereby certify that on the 4th day of June, A. D. 1857, at the office of P. B. Wilox, esq., in the city, county, and State aforesaid, being the time and place mentioned in the above caption, before me came personally A. Stone, jr., and after being carefully examined, cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, in the cause aforesaid, did in my presence subscribe the foregoing and annexed deposition after the same had been reduced to writing by me; that I am not of counsel or attorney for either of the parties in the cause aforesaid or in any *mattner* interested in the event thereof; that no notice was given to the plaintiff or his attorney, as neither of them is within one hundred miles of Columbus, the place of taking this deposition; all of which is certified at the city of Columbus aforesaid, in the county of Franklin aforesaid, by me, this 4th day of June, A. D. 1857.

LORENZO ENGLISH,
Mayor of said city of Columbus.

Fees $3, paid by P. B. Wilcox, for defts.
Attest: L. ENGLISH, *Mayor.*

Deposition of Henry B. Payne, taken on the part of the defendants, John A. Butler, Thomas Belknap, and W. H. D. Callender, at the city of Cleveland, in the county of Cuyahoga, and State of Ohio, on the 19th day of June, A. D. 1857, by F. W. Green, clerk of the circuit court of the United States for the northern district of Ohio, and which said deposition was filed in the clerk's office of said court on the 20th day of June, A. D. 1857.

IN THE CIRCUIT COURT OF THE UNITED STATES,
For the 7th Circuit and Northern District of Ohio.

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD CO. and others. } In chancery.

To the plaintiff in the above cause:

This is to notify you that upon the application of John A. Butler, Thomas Belknap, and W. H. D. Callender, defendants in the

above case, and in pursuance of the act of Congress in such case made and provided, I shall proceed, on Friday, the 19th day of June, A. D. 1857, at 9 o'clock in the morning, to take the depositions of H. B. Payne and others, at the office of the clerk of said circuit court of the United States, at Cleveland, in said northern district, continuing from day to day till completed; which depositions are to be used as evidence on the hearing of the above cause, at the taking whereat, at the time and place aforesaid, you can attend and cross-examine the witnesses if you please.

[SEAL.] Witness my signature and seal of office this 18th day of June, A. D. 1857.

F. W. GREEN,
Clerk and Acting Com'r.

Service of the within notice is hereby acknowledged this 18th day of June, A. D. 1857.

OTIS, COFFINBERRY & WYMAN,
For OTIS, SEARS & WYMAN.

June 18th, 1857.

THE UNITED STATES OF AMERICA,
Northern District of Ohio, ss:

Deposition of a witness, taken on the 19th day of June, A. D. 1857, at the office of the clerk of the circuit court of the United States for the circuit court and northern district of Ohio, at Cleveland, to be read in evidence on the part of John A. Butler, Thomas Belknap, and W. H. D. Callender, defendants in a certain suit in chancery pending in the circuit court of the United States for the said seventh circuit and northern district of Ohio, wherein Christian A. Zabriskie is complainant, and the said Butler, Belknap, Callender, and others are defendants, in pursuance of the notice hereto attached.

Present, J. M. Coffiberry, in behalf of W. S. C. Otis, att'y for pl'ff. J. M. Coffinberry.

T. Ewing, by P. B. Wilcox, for defendants Butler, Belknap, and Callender.

Henry B. Payne having been first duly sworn, testified as follows, to-wit:

Interrogatories by the defendants.

1. Please state your connexion with the Cleveland, Columbus, and Cincinnati Railroad Company in April, 1854, at the time the contract was made for indorsing the bonds in controversy in this suit.

Answer. I was the president of the company at that time. I was either president or acting president from October, 1851, to Nov'r 1st, 1854.

2. Please state, as near as you can, how early negotiations relative to the guage matter commenced.

Answer. Negotiations with the Columbus, Piqua, and Indiana Railroad Company commenced, I think, in the early part of Febru-

ary, 1854; but, for some time previous, there had been negotiations or conferences on that subject with the Bellefontaine and Indiana and Indianapolis and Bellefontaine Companies.

3. Please state the inducements and the consideration which led to, and formed the basis of, the indorsement of said bonds by the Cleveland, Columbus, and Cincinnati Company?

Answer. It had been for some time previous a cherished policy with our company to secure a continuous line of road to Indianapolis and St. Louis, to be made up of 78 miles of our road to Galion, the Bellefontaine and Indiana road from Galion to the State line at Union, the Indianapolis and Bellefontaine road from Union to Indianapolis, the Terre Haute and Richmond road from Indianapolis to Terre Haute, and the Atlantic and Mississippi road, then projected under Mr. Brough, from Terre Haute to St. Louis. It was contemplated to secure the whole line of the same guage with our road, viz, 4 ft. 10 in., if posssible; at all events, to extend that guage to Indianapolis. To that end we had advanced money to assist the Bellefontaine and Indiana road, and the guage of that road was of the same guage with ours, and we had made with that company a contract for close running arrangements. In pursuance of the same policy we had, early in the summer of 1853, rendered similar aid to the Indianapolis and Bellefontaine company, whose road had been constructed with the narrow or 4 ft. 8½ in. guage. This assistance had been rendered with an understanding that a certain number of our directors, or friends, should be elected into the directory of that road, and immediate steps taken to change the guage of that road so as to make it uniform with ours. This change in the directory was accordingly made, I think, in June, 1853, and Messrs. Hilliard, Gillett, and Witt, were made directors, and an order to change their guage was made in the fall of that year. This was prosecuted until some thirty miles, commencing at the State line, had been changed, when proceedings were arrested by an injunction granted by the cir. court of the United States for Indiana, at the instance of the C., P., and I. R. R. Company. It appeared that the company had a prior contract with the I. and B. Company, which they claimed entitled them to a retention of the narrow guage, which was the guage of their road so far as it had been constructed.

The granting of this injunction had been resisted by the I. and B. company on the hearing before the Hon. Judge McLean, and an unsuccessful motion to dissolve the injunction had been made at the term of the court in Dec. or January following. The I. and B. company deeming it of great importance that the break of guage on their road should be removed, and considering the result of the litigation doubtful, appointed a com. in Jan'y, I think, to confer with the C., P., and Indiana company for an amicable adjustment of the difficulty, and to obtain their consent to change the guage of the remainder of their road. That com. had visited Columbus, but

had not been able to accomplish the object of their appointment. The break of guage necessitated a transfer of passengers and freight, which was attended with expense and serious embarrassment to the business of the through line from Cleveland to Indianapolis. This was the condition of things when negotiations were commenced directly with our company. Mr. Dennison visited Cleveland about the 6th of February, 1854, and had an interview with Mr. Stone and myself, at which he stated that the C., P., and I. Company were greatly in want of means to complete their road; that the president was negotiating with parties in Pennsylvania connected with the Pa. Central Railroad to furnish the required aid with a view to secure to that company a continuous line of the narrow guage by the way of Steubenville, Columbus, and Union to Indianapolis and Terre Haute. But he, Dennison, thought that arrangement could be defeated, and our object of effecting a change of guage secured by our company endorsing a portion of the 3d mortgage bonds of the C., P., and I. Company. He was not prepared to submit a definite proposition at that time, but only sought to sound our inclinations. We expressed ourselves in favor of his plan, and gave him encouragement to expect that our board would endorse their proportion of $300,000 of the bonds.

Subsequently, on his return from Philadelphia, Mr. Dennison called on me and stated to me the conversation had by him with Messrs. Stone and Witt, in New York, in consequence of which he had, in Philadelphia, submitted a proposition to the com. of the C., P., and I. Company, which had operated to defeat the negotiations pending with the Pennsylvania parties, but that it would require an endorsement by our company with the B. and I. and I. B. Companies' bonds of $400,000, and the purchase of $50,000 of the stock of the C., P., and I Co., at par.

After much discussion and deliberation the terms were modified, principally at my instance. The amount of bonds to be endorsed was fixed at $400,000. The amount of stock to be purchased at par was reduced to $30,000. The guage of the I. and B. Road was to be changed to 4 ft. 10 in., and the guage of the C., P., and I. Road was also to be changed to 4 ft. 10 in., which would ensure a continuous line of our road from Columbus (where we had a connexion at that time) to Urbana, and all other points on that road. These negotiations were subsequently embodied in the form of a contract between the C., C., and C., B., and I., B. Companies, and Messrs. Neil and Dennison submitted to our board, approved by them, and in pursuance of the order of the board, I, as president, executed the contract in behalf of our company.

Another consideration also operated as an inducement with our board. The Atlantic and Ohio R. R. Company had been organized, and a portion of their road from Columbus to Chillicothe located. This road was principally under the control of Mr. Neil, who had contemplated constructing it of the wide or 6 foot guage. We had

long regarded a continuance of our road down the Scioto valley as highly desirable, and as there was at this time a fair prospect of the A. and O. road being built, we were anxious to secure a connexion with it, and to have it of the same guage with our road. I therefore, while negotiating with Mr. Dennison, insisted that those objects should be secured to our company by a separate contract with the A. and O. Company, and it was accordingly assented to by Mr. Dennison, and carried into effect simultaneously with the contract relating to the endorsement of the bonds.

4. Please state the business of Winslow, Lanier & Co., of New York city, at the time of the endorsement of said bonds, and what relation they had, if any, to the Cleveland, Columbus, and Cincinnati Company, the Indianapolis and Bellefontaine Company, and the B. and Indiana Company, and the Atlantic and Miss. Company, and whether said Winslow, Lanier & Co. were advised of the endorsement of said bonds at or about the time it was made?

Answer. Winslow, Lanier & Co. were the transfer agents of our company in New York, by whom dividends were paid to all shareholders whose stock was registered on the books in New York. It was my habit to advise them promptly of the action of the board on all matters of interest to the stockholders, but I do not recollect whether I communicated the fact of this endorsement by letter or orally when in New York in the latter part of May. They were also the agents of the B. and I. Company, and I think also of the I. and B. Company.

5. Please state whether the "railroad record," hereto attached, marked (A) was published, and in general circulation at the time it purports to bear date, to wit, July 20, 1854, and whether the facts stated at page 323, under the head of "Cleveland, Columbus, and Cincinnati Railroad," are correctly set forth?

Answer. I believe the "record" was so published, and in general circulation; and I think the facts therein stated in reference to the action of the stockholders at their meeting on the first of July are correctly reported, but should prefer to consult the record of the company.

6. Please answer the same as to document hereto attached, marked (B,) and whether the item of $10,000, on page 124, *purports* to be capital stock of Columbus, Piqua, and Indiana R. R. Company, was a part of the consideration for the endorsement of said bonds?

Answer. The American Railroad Journal was so published, and was the leading railroad paper in the country, and in very general circulation. The item of $10,000 was the portion of the stock purchase paid by the C., C., and C. Company in pursuance of the contract above named.

7. Please state whether the document hereto annexed, marked (C,) purporting to be the third annual report of the directors of the C., C., and C. Company made by you as president of said company

to the stockholders thereof, at the time it purports to bear date, and whether a copy thereof was sent to the respective stockholders?

Answer. It was the regular annual report of the directors, and was intended to be put into the hands of each stockholder. For eastern stockholders the reports were sent to Winslow, Lanier & Co., by whom they were intended to be furnished to those whose names were on their books.

8. Please state where the office books and papers and the records of the proceedings of the board of directors of the C., C., and C. Company were kept at the time of the negotiation and endorsement of said bonds?

Answer. At Cleveland.

9. Please state whether the complainant in this case, Christian A. Zabriskie, was at Cleveland; and if so, how long, between the time of the endorsement of said bonds and the ratification thereof at the stockholders' meeting, and whether the said books and records and papers were accessible to said complainant during his stay at Cleveland.

Answer. Mr. Zabriskie and Mr. Jones were in Cleveland one or two days about the 1st of June. They were bound for the Rock Island celebration. I was introduced to them, and conversed with them about the business, &c., of the C., C., & C. Company. The books were at all times accessible to the stockholders. My impression is that they were here part of two days. Mr. Jones subsequently represented Mr. Zabriskie and others at the stockholders' meeting on the 1st of July.

And further deponent saith not.

H. B. PAYNE.

Sworn to before and subscribed in my presence, this 19th June, 1857.

F. W. GREEN,
Clerk and Acting Com'r.

THE UNITED STATES OF AMERICA,
Northern District of Ohio, Cleveland, ss:

I, F. W. Green, clerk of the circuit court of the United States for the 7th circuit and northern district of Ohio, do hereby certify, that on the 19th day of June, A. D. 1857, at nine o'clock in the morning, at my office, as clerk aforesaid, at Cleveland aforesaid, being the time and place specified in the notice issued by me in that behalf and hereto annexed, before me came personally Henry B. Payne, esq., who, after being carefully examined and cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the cause named in the foregoing caption, did for himself, in my presence, subscribe the foregoing deposition, after the same was reduced to writing by himself, in my presence; that

the taking of said deposition was commenced at 9 o'clock in the morning, and closed at 12½ o'clock p. m., in pursuance of said notice; that I am not of counsel or attorney to either of the parties in the cause aforesaid, or in any manner whatsoever interested in the event thereof.

[SEAL.] Witness my signature and seal of office this 19th day of June, A. D. 1857.

F. W. GREEN,
Clerk and Acting Commissioner.

F. W. Green, com'rs fees, $8 00

Exhibit A.

The article on page 323 of the "Railroad Record," marked "Exhibit A," bearing to have been published at Cincinnati, Thursday, July 20, 1854, mentioned and referred to in the said deposition of H. B. Payne, is in the words and figures following, to wit:

"Cleveland, Columbus, and Cincinnati Railroad.—At a recent meeting of the stockholders of this company, at Cleveland, 18,984 shares of the stock were represented. The indorsement of $200,000 bonds of the Bellefontaine and Indianapolis Railroad Company, and $400,000 of the third mortgage bonds of the Columbus, Piqua, and Indiana Railroad Company, and the subscription of $50,000 to the Mississippi and Atlantic Railroad Company, and the subscription of $117,500 to the Indiana Companies, all making important connections with the first-named road, were ratified."

Exhibit B.

The item of $10,000, on page 124 of the American Railroad Journal, marked "Exhibit B," bearing to have been published at No. 9 Spruce street, New York, Saturday, February 24, 1855, mentioned and referred to in the said deposition of H. B. Payne, and which bears to be part of the assets as contained in an official statement of the condition of the Cleveland, Columbus, and Cincinnati Railroad Company, as at the 31st day of December, 1854, submitted by the board of directors to the stockholders of the company, Jan'y 1st, 1855, is as follows, to wit:

Capital stock of Columbus, Piqua, and Indiana R. R. Co.....$10,000 00

Exhibit C, referred to in the testimony of H. B. Payne.

F. W. GREEN,
Cl'k, and acting U. S. Com'r.

Third annual report of the directors of the Cleveland, Columbus, and Cincinnati Railroad Company to the stockholders. January 11th, 1854.

DIRECTORS AND OFFICERS FOR 1854.

Directors.

Leonard Case, Cleveland.	Alfred Kelley, Columbus.
Richard Hilliard, "	John Miller, "
Jonathan Gillett, "	Hosea Williams, Delaware.
Amasa Stone, jr., "	E. S. Prosser, Buffalo.
Stillman Witt, "	John M. Woolsey, New Haven, Ct.

H. B. Payne, Cleveland.

Officers.

H. B. Payne, President.	T. P. Handy, Treasurer.
M. J. Williamson, Secretary.	L. Tilton, Superintendent.

PRESIDENT'S REPORT.

To the stockholders of the Cleveland, Columbus, and Cincinnati Railroad Company:

The board of directors have the pleasure of laying before you their third annual report.

It has been thonght advisable to change the termination of the fiscal year from the 30th of November to the 31st day of December, and the dividend days to the first days of July and January. This will render the annual statement of the accounts more intelligible and satisfactory, but makes it necessary that the present report should cover the operations of the road for thirteen months, or from Nov. 30th, 1852, to December 31st, 1853.

During this period your road has been operated jointly with that of the Cleveland, Painesville, and Ashtabula company, under one superintendent, and the direction of a joint executive committee in pursuance of the contract referred to in our last report. The cars and engines belonging to both companies have been used indiscriminately over the road of each, and though the ratio of actual earnings has not been fully maintained, the difference is mainly attributable to the embarrassments occasioned by the break of guage on the eastern line.

In our last report, we ventured to estimate the earnings of the ensuing year at $1,000,000, which would have been an excess over the previous year of $222,203 78. The actual carnings for the twelve months ending November 30th, 1853, reached the sum of $1,100,190 72, being an excess over the preceding year of $322,397, 50, and over our estimate of $100,190 72, and showing for each month a handsome and decided increase on the business of the corresponding month of the previous year. Had the equipment been adequate to the wants of the road, the aggregate receipts would have fallen little, if any, short of $1,200,000. The inadequacy was principally in motive power, the causes of which

are fully explained in the accompanying report of the superintendent. In his report you will find tabular statements of the income and expenses of the road; the number of passengers and amount of freight transported compared with the previous year; a schedule of cars and engines, and other interesting details, which will prove valuable for present information as well as future reference. A summary of general results will best evince the fidelity and success with which the duties of the superintendent and those under his supervision, have been discharged:

544,117 miles have been run by the locomotives.

449,595 passengers have been carried without accident.

358,541,582 lbs. freight have been transported on the road.

This service has necessarily imposed arduous labor on the employes of the company, and especially on the persons in charge of the machinery and freight departments. The large amount of business transacted, and the uniform regularity with which the trains have been run, attest the general good fortune of the company in the selection of its agents.

Ample powers have been conferred on the executive committee, and it is their determination to provide a full supply of cars and engines for the future business of the road.

They have now 45 (mostly 1st class) locomotives.

9 new ones will be placed on the road within a few weeks.

10 additional ones are contracted for, to be delivered during the season, making in all 64 locomotives, for working 230 miles of road.

The two companies also own:

31 first class passenger cars.

19 second do. P. O. and baggage cars.

511 freight, stock, and platform cars.

They have erected a large car shop, furnished it with machinery and tools, and stocked it with materials. A heavy force is engaged in manufacturing cars, which will be turned out as fast as the wants of the service may require.

It will be observed that a large increase has been made in the expenses of operating the road. The causes of this are fully explained by the superintendent, and have produced similar results with railroads generally through the country. One item which has unexpectedly swelled the expenses of your road is $54,538 74 paid for iron to replace defective rails between Cleveland and Grafton. These are part of 3,000 tons purchased of Boorman, Johnstone & Co., of New York, and warranted by them to be of the manufacture of Guest & Co., and in quality equal to the best of that brand ever brought to this country. About one-third of this lot has been already taken up, and the balance will have to be replaced during the next season. The fraud which was practiced in this matter (probably by the manufacturer in Wales) is too flagrant, and the damages to this company are too serious, to permit it to be passed over. Satisfaction will be demanded of the contractors, and if refused by them, will be sought in a court of justice.

Ballasting.

$28,570 95 has been expended in gravelling during the 13 months. Thus far the gravel has been hauled from the pits at the termini of the road. But a large and valuable bank has been recently secured, lying on the Ohio and Indiana road about three miles from Crestline, which will furnish an abundance of good material for ballasting the central portion of the road. This much needed improvement will be urged forward as rapidly as possible.

Fencing and Cattle Guards.

This work has been prosecuted with commendable energy. Cattle guards have been put in at all the road crossings, and the roadway enclosed with a good substantial fence, except about five miles of the main line and a portion of the Delaware curve. The whole will be completed at an early day. The favorable effects are already visible in the reduced payments for "cattle damages," and in the increased safety of the trains.

Second Track.

In June last, a contract was made with the Cosalo Iron Company, at Newcastle, Pa., for 6,000 tons of the continuous or compound rail, to weigh 70 lbs. to the yard. A small lot was delivered in December, but too late to be laid down before frost. Sufficient will be manufactured during the winter and spring to reach from Cleveland to Grafton, and will be put down as fast as the ballasting and cross-ties are prepared for it. The balance will be delivered during the season. It is expected that 25 miles, from Galion north to Greenwich, will be ready for the iron by fall, and that at least 50 miles will be completed and brought into use in the course of the year. The remaining 29 miles will be placed under contract without unnecessary delay. This track is greatly needed, but it is the determination of the board that the work shall be thoroughly done. With its low grades, long tangents, heavy bed of gravel, cross-ties of extra size and quality, and a compound rail of the proposed weight and pattern, it is expected that when completed this will be a model road.

The expenditures under this head have been $90,891 02.

Construction Account, Capital stock, &c.

The secretary's abstract, accompanying this report, presents the condition of these accounts, as well as of the assets and liabilities of the company.

The construction account, exclusive of cars and engines, is now $3,196,545 15.

The increase to it for the 13 months is $222,228 91, the principal items of which are for building passenger house, and enlarging freight depot at Cleveland, engine house at Galion, new side tracks,

fencing, ballasting, and $43,155 60 premium paid for the stock of this company, which, however, on sale of the stock will be credited back to this account.

The capital stock has been increased		$906,622
as follows: Payments on new stock	$485,502	
Conversion of bonds	330,000	
Redemption of Cleveland city and Delaware county bonds	90,000	
Other payments	1,120	
		$906,622
The present capital stock is		$3,933,652
If to this we add remaining instalments on new stock	$494,798	
Balance outstanding, convertible bonds	75,000	
Cleveland City and Delaware county bonds (say)	5,000	
		574,798
We have a total of		$4,508,450

beyond which it is believed it will be unnecessary to extend the issue of stock until it shall be decided to lay down a double track between Galion and Columbus.

It will be observed that the company hold $149,710 of its own stock, for which a premium has been paid of $43,155 40. This may need explanation. By the redemption of the Cleveland city and Delaware county bonds with stock, in fulfilment of the guaranty endorsed on them at the time of negotiating their sale, a large amount of these bonds had come into the possession of the company; and deeming it the best disposition that could be made of them, the board, in March last, authorized the purchase of stock held by said city and county at a premium of 30 per cent., and accordingly a purchase was made to the extent of the bonds then held by the company. $35,000 of the stock was immediately sold at its cost; and the remainder, with increase of new stock, now amounts to the sum of $149,710, and can at any time be disposed of, so as, with the accruing dividends, to make the company good, and probably realize a profit.

In January last, the commissioners of Franklin county determined to sell the $50,000 stock held by that county; but while the endorsement of this company was outstanding on their bonds, the board was unwilling that their stock should be transferred to strangers. Negotiations were commenced, which resulted in the board's purchasing the stock at a premium of 25 per cent., which was paid to them in money, and the payment of the bonds directly assumed by this company. The stock was immediately disposed of, without loss to the company.

In examining the abstract of the Secretary, one very gratifying fact will not fail to arrest your notice, to wit, that this company is substantially out of debt. Its original bonded debt amounted to $1,652,000. The undertaking was itself a pioneer enterprise. Its bonds were presented in New York, when the credit of western railroads was unknown. Stock subscriptions at home were feeble and distrusted. Cleveland and Columbus cities, then at the lowest stage of depression, came into the work with hesitation and reluctance. Yet, under all these accumulated embarrassments, the work was commenced and carried through.

As to its fruits, it may with truth be affirmed that it has profited every one who has invested money in its stock or its bonds; it has duplicated the wealth of the country which it penetrates, and trebled that of the two flourishing cities which it connects. During the long and severe ordeal through which it passed, every pecuniary engagement it contracted was punctually and scrupulously met, and every promise to the public or to individuals was faithfully fulfilled. Its entire liabilities are now but $75,000, besides the $50,000 of the Franklin county bonds, and this we are prepared to pay off at any day.

Interest was paid on the stock up to June 1st, 1851, since which time the following dividends have been declared and paid:

4	per cent		December 1st, 1851.
4	"	extra	" " "
7	"		August 1st, 1852.
5	"		February 1st, 1853.
3	"	extra	April 1st, "
5	"		August 1st, "

Total 28 per cent., for a period of 26 months.

With the speedy and certain extinguishment of its debt, the road, with all its franchises, assets, and business, becomes the sole property of the stockholders; and its policy may now be fixed and established by them, without infringing the rights of creditors or encroaching on those of the State.

The following views, indicating the inclination of the board, are suggested for your attentive consideration:

1st. The net income of the road should insure a certain and reliable dividend of ten per cent. per annum.

The day for extravagant dividends has passed. The multiplication of railroads is so rapid and so reckless, and the delusion as to their cost and productiveness is so general, that a widespread and frightful revulsion must inevitably take place. Prices of transportation are being constantly reduced, while the cost of construction and expenses of every kind are being as constantly increased. In almost every instance, the cost of completing and equipping a road

far exceeds the calculations of its projectors, and the deficiency of means has to be supplied by a new issue of bonds. Then the earnings are chargeable, in the first place, with the running expenses, including repairs, taxes, deterioration, and interest; and if these are faithfully provided for, the surplus for dividends will, in many cases, be very small.

This, however, can never be the case with your road. It will owe no debt, and therefore will have no interest to pay. Its location is in the natural channel of travel and trade, the very best in the line connecting the three principal cities of the State, which makes it for both local and through business a great leading thoroughfare, and such it must always remain, while the economy with which it can be operated, on account of its straight lines and low grades, sets at defiance all injurious competition.

Again, it has attained the character of a great trunk line which other important roads desire to intersect. It will be sufficient to enumerate those that have already formed close business connections, or are desirous of doing so:

The Lake Shore road, connecting with the Buffalo and State line; New York and Erie and New York Central roads; the Cleveland and Pittsburg; the Cleveland and Toledo, intersecting at Grafton, where also are to come in the Cleveland and Wooster, and Cleveland and Medina roads; the Sandusky, Mansfield and Newark, at Shelby; the Ohio and Indiana, at Crestline, running westerly to Ft. Wayne, and thence of same gauge by the Ft. Wayne and Chicago road to Chicago; the Ohio and Pennsylvania, at Crestline, forming a direct line from Pittsburg to Cincinnati; the Bellefontaine and Indiana, at Galion, making with the Indianapolis and Bellefontaine, a continuous line to Indianapolis, and thence, as is expected, by roads to St. Louis and to Evansville; the Springfield and Delaware road, at Delaware; the Columbus and Piqua, and Atlantic and Ohio, at Columbus; not to name the Dayton and Xenia and other roads running into the Columbus and Xenia and Little Miami roads, which to a considerable extent must supply business to this line. Others of merit are projected, especially the Cleveland, Madison, and Louisville road, which, on account of its importance and prospects, is deserving of particular notice. But enough have been named to demonstrate the practicability of maintaining, by judicious management, a business which shall be permanently productive.

2d. The net earnings, after providing for the regular dividends, should be charged in the first place with keeping the road in perfect order and preservation. Railroad companies generally set apart no fund to meet the deterioration of superstructure or equipment. The wear and tear is estimated variously from 10 to 15 per cent. on the original cost. The board are of opinion that the equipment should be kept good by the addition annually of a

sufficient number of new cars and engines, which should be charged over to running expenses; and that a liberal per centage should be annually transferred to the surplus fund to meet the deterioration of the track, and provide for its re-construction. Under this policy, stockholders will feel assured that their road will be as valuable 10 or 20 years hence as it is to-day; and stability based on intrinsic worth, will be imparted to the value of the stock, protecting it from the fluctuations of the money market, and from the ever-varying fate of speculative and fancy shares. This surplus fund need not remain unemployed, but may be invested in the bonds or stock of other roads, and thereby accomplish another object, which is:

3d. The rendering timely assistance to roads proposing to connect with yours.

By this is not meant the policy of building branches, which has proved so fatal elsewhere. Its best definition will be a statement of what the board has already done in aiding other companies.

This company guarantied the payment of interest on $200,000 of the first-class mortgage bonds of the Toledo, Norwalk and Cleveland company, and thereby secured a connected line for business between Cleveland and Toledo.

It guarantied the same on $100,000 of similar bonds of the Cleveland, Medina & Tuscarawas company, and thus secured a similar connection with Massillon and the rich coal fields on the line of that road.

It loaned $47,300 for a subscription of stock at par in the Bellefontaine and Indianapolis company; and $54,000 (to be increased to $70,000) for a like subscription to the Indianapolis and Bellefontaine company, which have resulted in placing a large interest in both in the hands of the stockholders and friends of your road, and in cementing an alliance which secures for all future time an uninterrupted line of communication between Cleveland and Indianapolis. Similar aid has been promised to the Atlantic and Mississippi road extending this connection to St. Louis, which will undoubtedly be completed within the next 18 months.

These companies may need additional assistance, and others proposing to intersect yours, may, by a moderate loan of money or credit, be enabled to finish their roads and establish with us business relations for the mutual benefit of both parties, while the advances on our part may be made safe and remunerative.

Unless advised of your disapprobation, the board will continue to pursue this policy. The investments will be made with caution and due discrimination, avoiding all hazard and risk, and providing for repayment whenever required for the reconstruction of the track or demanded for division among the stockholders. The effect in the meantime will be to appreciate the real value of the stock

and induce permanent investments by those who are satisfied with liberal but uniform returns for their money.

It has been deemed indispensable to provide a line of first-class steamboats between Cleveland and Buffalo. The New York and Erie Company having built two boats expressly adapted to that trade, an arrangement was in July last entered into, according to which the title to said boats passed into the hands of trustees for the joint and equal benefit of the New York and Erie, New York Central, and the line of roads between Erie and Cincinnati. The proportion advanced by this company was $54,000.

In conclusion, the board take much pleasure in adding that the utmost harmony and good understanding have prevailed between the officers and agents of this company and those of the Columbus and Xenia and Little Miami Companies, and others with whom we have had business relations.

In behalf of the board.

H. B. PAYNE,
President.

Vide p. 24.

Superintendent's Report.

Hon. H. B. PAYNE,
President.

SIR: The following report in relation to the business of the Cleveland, Columbus, and Cincinnati railroad, for thirteen months, ending December 31st, 1853, is respectfully submitted.

The income was as follows, viz:

From passengers	$632,640 80
" freight	496,040 37
" mail $34,785 35; express $23,335 32	58,120 67
" rents $806 44; dividends $4,265	5,071 44
Total	$1,191,873 28

The expenses were as follows, viz:

For repairs of road	$158,225 37
" " locomotives	68,897 98
" " cars	44,772 69
" transportation expenses	86,726 75
" station expenses	68,812 52
" general expenses $38,294 90; taxes $31,409 74	69,704 64
" fuel account	41,387 80
" oil and waste	20,056 79
" gratuities for stock killed	2,982 94
" printing and stationery	5,852 45

4037

For loss and damages	$10,113 52
" interest	3,242 71
Total	$580,776 16

Assuming 12-13ths of the income and expenses, as above stated, to be due to the year ending November 30, 1853, the results of the operations of that year, as compared with those of the preceding year, are exhibited in the following table, (A):

A.

Receipts and expenses for the twelve months ending November 30th, 1852.			
RECEIPTS.		EXPENSES.	
Passengers	443,013 21	Repairs of track	64,315 68
Freights	294,786 21	Repairs of loco's	40,190 02
Mails & exp's	39,993 80	" cars	21,592 27
		Trans'n expenses	38,697 43
		Station do.	44,138 33
		General expenses & taxes	25,900 07
		Fuel account	36,576 40
		Oil, waste, &c	15,255 34
		Gratuities for stock killed	4,327 82
		Printing and stat'y	2,750 31
		Repairs of buildings	595 75
	$777,793 22		$294,339 42

Receipts and expenses for the twelve months ending November 30th, 1853.			
RECEIPTS.		EXPENSES.	
Passengers	583 976 12	Repairs of track	146,054 19
Freights	457,883 42	Repairs of loco's	63,598 13
Mail & exp's	53,649 85	" cars	41,328 64
Rents & div'ds	4,681 33	Trans'n expenses	80,055 46
		Station expenses	63,519 25
		General expenses & taxes	64,342 75
		Fuel account	38,204 12
		Oil, waste, &c	18,513 96
		Gratuities for stock killed	2,753 48
		Printing and stat'y	5,402 26
		Loss and damages	9,335 55
		Interest	2,993 28
	$1,100,190 72		$536,101 07

From this it appears, that notwithstanding the large increase of receipts, the expenses increased in a still greater ratio. The higher prices paid for labor generally, the greater number of miles run by trains, and the greater cost of doing the business, in consequence of not having a sufficient number of locomotives, will, to a considerable extent, account for this. Of eleven locomotives, which, according to contract, should have been delivered during the last summer, only one was received prior to September 1st, and only three prior to November 25th. When it is considered that the extraordinary demand and the high prices paid during the last four months of the year for the agricultural productions of the country caused them to be offered for transportation in such quantities as to tax to its utmost the capacity of any ordinarily well equipped road, it may readily be conceived that the failure on the part of the builders to deliver these locomotives in due season gave rise to very serious embarrassment on the part of the company, and to annoying, though not, perhaps, altogether unreasonable complaints, on the part of those who were not served as promptly as they desired to be.

Three locomotives, in addition to those above referred to, have recently been purchased, and a contract made for ten more, to be built at the Cuyahoga works, Cleveland, and delivered from time to time during the present year. There is, therefore, reason to believe that in future the business, unless much larger than is now anticipated, may be done more promptly and more satisfactorily to all concerned than has hitherto been possible.

On account of repairs of road, more than fifty thousand dollars was paid for new iron and sleepers, and probably fifty thousand sleepers, and at least one thousand tons of iron will be required for repairs during the present year. The iron between Cleveland and Grafton is failing rapidly. Like much of that imported within the last six or eight years, it proves to be of very bad quality. The iron on other parts of the road is also beginning to fail, but is generally in good condition. That large expenditures for renewals will every year be required, there is no doubt; and in purchasing rails for that purpose, as well as for the second track, it is believed that the interests of the company will be better promoted by obtaining, if possible, those of the most durable quality, rather than those that may cost the lowest price per ton.

In addition to the expenditures for new iron, &c., the cost of repairs of road was further increased by charging to that account the expense, which has every year been large, of widening cuts and embankments, ditching, &c., instead of to construction account, as in previous years.

The track has been kept in as good order as possible, considering the nature of the material on which most of it lies. Until it shall be thoroughly ballasted, it will always be uneven in the spring of

the year, and after long-continued rains, and no amount of labor can make it otherwise. In consequence of a want of motive power, and of having no gravel except at the two ends of the road—thus rendering it necessary to haul it from twenty to thirty miles—but little progress has been made in ballasting since the date of the last report; but having recently purchased a gravel bank near the centre of the road, efforts will be made to prosecute this work more rigorously during the present year, and those parts of the road which most require ballasting will be attended to without unnecessary delay.

On the first of July last a contract was made between the companies owning the roads extending from Cleveland to Cincinnati via Columbus, and those owning the road extending from Cleveland to Cincinnati, via Sandusky and Dayton, according to which the income derived from the through business, on both lines, after deducting fifty per cent. for expenses, is to be divided in such manner as to give the east line sixty per cent., and the west line forty per cent. thereof. Agreeably to this contract, $37,472 56 was paid by the east to the west line, of which amount the sum of $12,530 was paid by the C. C. & C. Railroad Company, and charged to "transportation expenses."

The number of miles run by passenger trains was	264,692
By freight trains	201,269
By gravel, wood, and other trains	78,156
Total	544,117

The above number of miles run by passenger trains includes 24,600 miles run between Cleveland and Grafton, by Cleveland and Toledo trains. The cars and engines of the Cleveland and Toledo road were used in this service, and the amount paid for the use of them charged to "transportation expenses."

The number of passengers carried, exclusive of free passengers, was 449,595—equal to 1,326 per day. Of this number only about one-fourth were through passengers, or those carried over the whole length of the road, but from these about one-half of the passenger income was derived. At first view, it would seem that the local passenger business was unusually large; and it may, therefore, be proper to remark, that a large part of the income from what are considered way passengers is derived from those carried to and from the roads connecting at Grafton, Crestline and Galion.

The number of tons of freight carried, exclusive of wood, stone, gravel, and other materials for construction, repairs, &c., was 179,271—equal to 529 tons per day. The number of tons carried one mile was about 15,000,000—equal to 109,490 tons for the thir-

teen months, or 323 tons per day carried over the whole length of the road. The number of tons carried during the year ending November 30th, 1852, was 97,211—equal to 310 tons per day, or about three-fifths as many per day as during the last year.

It is believed that the passenger trains were run with as much regularity and freedom from accident, as upon any single-track road in the country as long as this. No passenger was killed, and but one injured, and that one was a woman who fell in getting off a train while in motion—a practice much too common, entirely unnecessary, and one which cannot be too strongly condemned.

Some further information, in regard to details, may be found in tables B and C. The first shows the number of pounds of the different kinds of freight transported during the thirteen months ending December 31, 1853, and the second the earnings from passengers, freight, mail, and express for each month of the years 1852 and 1853.

B.

Abstract of Freight transported over the Cleveland, Columbus and Cincinnati Railroad, from November 30th, 1852, to January 1st, 1854.

Pounds of	Cleveland to Columbus and Way Stations.	Columbus to Cleveland and Way Stations.	Way Stations to Cleveland.	Way Stations to Columbus.	Way Stations to Way Stations.	Total of Each.	Totals in Pounds.
Merchandise	111,161,817	40,493,340	7,759,508	6,447,481	5,693,085	171,555,231	
Butter	436,046	226,414	1,235,938	813,978	20,036	2,732,412	
Cheese	7,430,377	19,899	143,376	229,468	55,448	7,878,568	
Wool	21,945	687,096	1,402,206	1,185	149,270	2,261,702	
Forest products	5,780,176	118,865	12,776,212	3,116,951	2,010,634	23,802,838	
Building stone	.....	54,460	2,713,956	2,500	566,246	3,337,162	
Grindstone	45,364	.....	4,528,808	541,724	194,340	5,310,236	
Slaughtered hogs	.....	5,887,195	6,617,228	1,837	2,853	12,509,113	
Tobacco	720,380	5,382,200	16,450	26,256	100	6,145,386	
Salt pork, hams and lard	37,925	13,788,559	1,794,138	5,060	3,322	15,629,004	
Totals	125,634,030	66,658,028	38,987,820	11,186,440	8,695,334	251,161,652	251,161,652
Numbers of							
Hogs and sheep	973	47,746	71,775	1,235	215	121,944	24,388,800
Cattle and horses	212	13,860	6,712	172	171	21,127	21,127,000
Totals	1,185	61,606	78,487	1,407	386	143,071	
Bushels of wheat	100	15,890	468,217	521	822	485,550	29,133,000
" other grain and seed	4,704	10,387	272,393	25,735	6,690	319,909	15,995,450
Totals	4,804	26,277	740,610	26,256	7,512	805,459	
Bbls. of flour	110	61,798	19,518	777	1,479	83,682	16,736,400
Total pounds transported	.....	.....	.....	.....	.....	.....	358,542,302

C.

Statement showing the Earnings from Passengers, Freight, Mail and Express, for each month of the years 1852 *and* 1853.

	1852.				1853.			
	Passengers.	Freight.	Mail and Express.	Total.	Passengers.	Freight.	Mail and Express.	Total.
January..	$17,656 86	$10,810 58	$2,687 81	$31,155 25	$39,463 66	$30,295 71	$4,190 17	$73,949 54
February.	16,392 75	10,982 48	2,891 85	30,267 08	36,139 36	26,636 51	4,049 53	66,825 40
March.....	21,111 43	14,378 46	2,918 57	38,408 46	47,109 15	34,184 09	4,480 43	85,773 67
April.....	29,010 12	20,811 88	2,985 75	52,807 75	45,575 70	32,626 55	4,098 66	82,300 91
May	38,190 11	29,459 46	3,083 68	70,733 25	46,441 57	39,011 21	4,789 31	90,242 09
June.....	43,463 51	27,010 65	3,019 45	73,493 61	53,776 62	33,592 46	4,797 50	92,166 58
July.....	46,360 19	24,807 12	3,539 38	74,706 69	48,097 77	36,045 19	4,763 35	88,906 31
August....	49,428 96	27,748 52	3,681 66	80,859 14	56,625 21	43,073 25	4,928 20	104,626 66
September	66,550 14	35,281 45	4,181 71	106,013 30	62,096 79	50,054 64	4,930 57	117,082 00
October ...	53,323 97	38,859 50	4,207 49	96,390 96	62,416 07	47,150 44	4,904 36	114,470 87
November	42,301 54	38,511 05	4,009 62	84,822 21	51,937 97	45,020 30	4,489 50	101,447 77
December.	40,220 91	31,062 31	3,685 22	74,968 44	42,740 02	47,287 71	4,820 31	94,848 04
	464,010 49	309,723 46	40,892 19	814,626 14	592,419 89	464,978 06	55,241 89	1,112,639 84

The C. C. & C. and C. P. & A. Railroad Companies own jointly the following cars, viz:

31 first class passenger cars.
19 second " post office and baggage cars.
318 eight-wheel box cars.
83 " " stock "
110 " " platform cars.

Table D shows the number, description, &c., of the locomotives owned jointly by the two companies.

The number of cars placed on the road last year, the cost of which was charged to constructing account, was as follows, viz:

Passenger cars, 5; 2d class cars, 5; platform cars, 54; stock cars, 46; box cars, 121; 12 platform and 11 box cars were built at the company's shop, of which the cost of seven of the former and six of the latter was charged to "repairs of cars." It will be necessary to build a large number of freight cars during the present year, and materials for that purpose have already been provided. Considerable progress has been made in the construction of passenger cars, of which five will be ready for use early in the spring, and others will be finished as soon as possible.

Probably no other road in the country ever did so large a passenger business, as has been done on this road, with so small a number of cars. Care has been taken to keep them in safe running order, but it has been impossible to keep them out of service long enough to repaint them as often as they required repainting. In order that they may be kept clean, well painted, and in every respect in proper repair, as well as that there may be enough to afford sufficient accommodation in extraordinary cases, more than double the number now owned by the two companies is deemed absolutely necessary. Those to be built hereafter will be considerably wider than those now in use, thus practically securing, so far as the comfort of passengers is concerned, the only advantage that wide-gauge roads have had over those of narrow gauge.

D.

Statement showing the number and description of Locomotives owned by the Cleveland, Columbus, and Cincinnati, and Cleveland, Painsville, and Ashtabula Railroad Companies, on the first of January, 1854, by whom built, when placed on the road, &c., &c.

Names.	By whom made.	Whan placed on road.	Diam'r of cylinder.	Length of stroke.	No. of d'g wh'ls.	Diam'r D. wheels.	Remarks.
Cleveland	Cuyahoga St'm Furnace Co.	March 6th, 1850	14 in.	20 in.	Four.	5 ft. 6 in.	Good order.
Columbus....	Do.....do	June 5th, 1850	14 "	20 "	do	5 ft. 6 in.	In shop for general repairs.
Mt. Vernon ..	Lowell Machine Shop.....	July 4th, 1850	14 "	18 "	do	5 ft. 0 in.	2d hand; in shop for general repairs.
Cuyahoga	Cuyahoga St'm Furnace Co.	August 30, 1850	16 "	20 "	d1	4 ft. 6 in.	Good order.
Lorain.....	Do.....do	September, 1850	16 "	20 "	do	4 ft. 6 in.	Good order.
Huron	Do.....do	Nov'r 27th, 1850	16 "	20 "	do	4 ft. 6 in.	Good order.
Richland.....	Do.....do	Jan'y 21st, 1851	16 "	20 "	do	4 ft. 6 in.	In shop for general repairs.
Delaware	Do.....do	Feb'y 27th, 1851	16 "	20 "	do	4 ft. 6 in.	Good order.
Franklin	Do.....do	April 10th, 1851	16 "	20 "	do	4 ft. 6 in.	Good order.
Little Xenia..	Rogers, Ketchum & Gro'r...	May 19th, 1851	12 "	18 "	do	4 ft. 6 in.	2d hand; good order.
Cincinnati....	Cuyahoga S'tm Furnace Co.	June 2d, 1851	14 "	20 "	do	5 ft. 6 in.	Good order.
Springfield ..	Hinkley & Drury.....	June 7th, 1851	13½ "	20 "	do	5 ft. 0 in.	2d hand; wants new flue sheet.
Washington .	Do.....	July 14th, 1851	13½ "	20 "	do	5 ft. 0 in.	2d hand; good order.
St. Louis.....	Cuyahoga St'm Furnace Co.	July 31st, 1851	14 "	20 "	do	5 ft. 6 in.	Good order.
Louisville	Do.....do	Sept. 20th, 1851	14 "	20 "	do	5 ft. 6 in.	Running; wants new crown sheet.
Eclipse	Springfield Car & Eng. Co...	Nov'r 25th, 1851	14 "	20 "	do	5 ft. 6 in.	2d hand; wants new flue sheet.
New Orleans.	Cuyahoga St'm Furnace Co.	Dec'r 3d, 1851	14 "	20 "	do	5 ft. 6 in.	In shop for new fire box and general repairs.
Xenia	Boston Locomotive Works...	December, 1851	16 "	20 "	do	4 ft. 6 in.	2d hand; good order.
Ohio	Cuyahoga St'm Furnace Co.	Dec'r 27th, 1851	16 "	20 "	do	4 ft. 6 in.	In shop for new fire box and general repairs.
New York....	Do.....do	Jan'y 29th, 1852	16 "	20 "	do	4 ft. 6 in.	In shop for new fire box and general repairs.
Belle Centre..	A. Harkness & Son	April, 1852	12 "	18 "	do	5 ft. 2 in.	2d hand; good order.
Indianapolis .	Cuyahoga St'm Furnace Co.	April 17, 1852	15 "	20 "	do	6 ft. 0 in.	Good order.
Chicago.....	Do.....do	May 28th, 1852	15 "	20 "	do	6 ft. 0 in.	Good order.

Statement showing the number and description of Locomotives owned by the Cleveland, Columbus, and Cincinnati, and Cleveland, Painsville, and Ashtabula Railroad Companies, on the 1st of January, 1854, by whom built, when placed on the road, &c., &c.—[CONTINUED.]

Names.	By whom made.	When placed on road.	Diam'r of cylinder.	Length of stroke.	No. of d'g wh'ls.	Diam'r D. wheels.	Remarks.
Nashville.....	Cuyahoga St'm Furnace Co.	July 7th, 1852	15 in.	20 in.	Four.	6 ft. 0 in.	Good order.
Lion.....	Schenectady Loco. Works...	Aug't 16th, 1852	16 "	22 "	do	5 ft. 0 in.	Good order.
Indiana.....	Cuyahoga St'm Furnace Co.	Aug't 26th, 1852	16 "	20 "	do	5 ft. 0 in.	Good order.
Leopard.....	Schenectady Loco. Works...	September, 1852	16 "	22 "	do	5 ft. 0 in.	Putting in new flue sheets.
Eagle.....	Cuyahoga St'm Furnace Co.	Sept'r 21st, 1852	15 "	20 "	do	6 ft. 0 in.	Good order; just rebuilt.
Falcon.....	Do.....do.....	Oct'r 30th, 1852	15 "	20 "	do	6 ft. 0 in.	Good order.
Illinois.....	John Souther & Co.....	Nov'r 22d, 1852	15 "	20 "	do	4 ft. 6 in.	In shop for repairs.
Kentucky.....	Do.....	Dec'r 15th, 1852	15 "	20 "	do	4 ft. 6 in.	Good order.
Ospray.....	Cuyahoga St'm Furnace Co.	Dec'r 15th, 1852	15 "	20 "	do	6 ft. 0 in.	Being rebuilt on account collision with tree.
Erie.....	John Souther & Co.....	Dec'r 31st, 1852	15 "	20 "	do	5 ft. 6 in.	Good order.
Tiger.....	Schenectady Loco. Works...	March 2d, 1853	16 "	22 "	do	5 ft. 6 in.	Good order.
Buffalo.....	John Souther & Co.....	March 12th, 1853	15 "	20 "	do	5 ft. 6 in.	In shop for repairs.
Panther.....	Schenectady Loco. Works...	March 12th, 1853	16 "	22 "	do	5 ft. 6 in.	Good order.
Lynx.....	Do.....do.....	March 22d, 1853	16 "	22 "	do	5 ft. 6 in.	In running order; wants new flue sheet.
Iowa.....	Niles & Co.....	April, 1853	16 "	22 "	Six.	4 ft. 0 in.	Good order.
Wisconsin....	Do.....	May, 1853	16 "	22 "	do	4 ft. 0 in.	In shop for repairs.
Michigan.....	Do.....	May, 1853	16 "	22 "	do	4 ft. 0 in.	In shop for repairs.
Painsville.....	Taunton Locomotive Works.	Aug't 23d, 1853	15 "	22 "	Four.	5 ft. 0 in.	Good order.
Ashtabula....	Do.....do.....	Sept'r 13th, 1853	15 "	22 "	do	5 ft. 0 in.	Good order.
Leonard Case	Do.....do.....	Oct'r 17th, 1853	15 "	22 "	do	6 ft. 0 in.	Good order.
Poney, No. 1.	Cuyahoga St'm Furnace Co.	Nov'r 25th, 1853	13 "	20 "	4, no tr'ck.	4 ft. 0 in.	Good order.
Poney, No. 2.	Do.....do.....	Dec'r 29th, 1853	13 "	20 "	do	4 ft. 0 in.	Good order.

The grading and masonry for the second track between Cleveland and Grafton are nearly finished—a part of the iron has arrived, and the rest of it will no doubt arrive as soon as it will be wanted. It will be laid as soon as the ballasting can be done, and it is hoped that 12½ miles of this track may be ready for use by the first of June. Contracts have been made for the grading and masonry for the second track between Greenwich and Galion—25 miles. This work is to be finished by the first of September, and as a large quantity of gravel has been purchased at a point on the Ohio and Indiana road, about three miles from Crestline, the ballasting on that part of the road will probably be finished, and the track laid by the first of December. In view of the probable increase of business, requiring the running of a greater number of trains, the whole of the second track between Cleveland and Galion—79 miles—should be completed as soon as practicable.

Ten trains per day, each way, and frequently more, have for some time been running between Cleveland and Grafton, and as many, no doubt, will soon be required as far as Galion. It is not pretended that this number may not, with proper care, be run safely on a single track. But the best men in charge of trains may not always be sufficiently careful. It not unfrequently happens that those long tried, and considered most reliable in this respect, make mistakes which lead to disastrous consequences. Aside from this, cars and engines will sometimes fail on the road, causing, on a single track, vexatious delays, not only of one, but frequently of several trains; whereas, on a double track, but one, in ordinary cases, could be delayed to any great extent.

During the year, about three miles of side tracks were laid, making the total length of side tracks, at present, 14½ miles. The freight depot, at Cleveland, was enlarged by adding 144 feet to its length, and a new passenger-house erected, 361½ feet long and 118 feet wide. The freight depot is still inadequate to the demands of the business, and, therefore, arrangements have been made to extend another pier into the lake, and erect thereon a building 396 feet long and 85 feet wide.

Respectfully submitted:

L. TILTON, *Superintendent.*

January, 1854.

Abstract of the books of the C. C. & C. R. R. Co., December 31, 1853.

Construction	$3,196,545 15	
Do. second track	90,891 02	
Cars and engines	545,912 51	
		$3,833,348 68
Real estate	34,119 96	
Cleveland city and Delaware county bonds	45,000 00	

Stock of this company	$149,710 00	
Columbus and Xenia railroad stock	5,050 00	
Cleveland and Cincinnati telegraph stock	3,000 00	
Steamboat stock	54,000 00	
Loan to stockholders Bellefontaine and Indiana Railroad Company	47,500 00	
Loan to stockholders Indianapolis and Bellefontaine Railroad Company	54,000 00	
Loan to Cleveland and Mahoning Railroad Company	12,000 00	
Bills receivable	116,542 88	
Individual and other accounts	6,073 28	
		$526,996 12
		4,360,344 80
Capital stock	3,933,652 00	
Mortgage bonds	67,000 00	
Other convertible bonds	8,000 00	
Franklin county bonds	50,000 00	
Bills payable and other liabilities	8,599 84	
Borrowed from earnings	293,092 96	
		$4,360,344 80

M. J. WILLIAMSON, *Secretary.*

Deposition of R. Walkup, taken on the part of the defendants, by consent of the parties, at the city of Columbus, in the county of Franklin, on the 10th day of July, A. D. 1857, and which said deposition was filed in the clerk's office aforesaid on the 14th day of July, A. D. 1857.

In the Circuit Court of the United States, seventh circuit and northern district of Ohio.

ZABRISKIE
vs.
CLEVELAND, COLUMBUS, AND CINCINNATI RAILROAD COMPANY, AND OTHERS. } In Chancery.

The deposition of R. Walkup, of said district, of lawful age, taken at the office of P. B. Wilcox, in Columbus, Franklin county, Ohio, on the 10th day of July, A. D. 1857, by consent of parties—W. S. C. Otis, esq., appearing for plaintiff, and T. Ewing by P. B. Wilcox; for defendants Butler, Belknap, and Callender.

The said Walkup, being first duly sworn, says:

Question by Defendants.

Please whether, at or about the time of the endorsement

of the bonds in controversy in this suit, the gauge of the Piqua road was changed, and a connection formed at Columbus between the Piqua road and the Cleveland, Columbus and Cincinnati road, so as to run each other's cars on the respective roads.

Answer. It was so changed, some 60 or 90 days after the date of that endorsement.

Question by same. Please state whether another and better connection of the like character has recently, and how recently, been made between said companies.

Answer. There has been an additional connection made and a new platform erected between the two connecting tracks of the Piqua road, for the better accommodation of both roads; the same were made at the joint expense of the Piqua and the Central and Cleveland and Columbus and Cincinnati road.

Question by Plaintiffs' Counsel.

Are you the same person who gave a previous deposition in this case?

Answer. I am.

Question by same. Who transported from Cleveland the first iron used in laying the Piqua road, and when was it done?

Answer. It was done by the Cleveland, Columbus and Cincinnati R. R. Company, and I think in the winter and spring of 1852.

Question by same. State whether, at that time, the C. P. and J. Railroad Co. furnished iron, ties, and other materials to the C. C. and C. R. R. Co., to enable the latter to put in a switch and side track immediately south of the engine-house of the C. C. and C. and C. and X. Companies at Columbus, so as to enable the C. C. and C. Company to deliver said iron to the Piqua road at that point.

Answer. They did.

Question by same. About how many lengths of rail did the track so laid by the C. C. and C. Co. with said iron and ties of said C. P. and J. Co. extend, from the switch then and still connecting the two tracks?

Answer. About 35 lengths of rail, as I counted this morning, at the request of Mr. Otis, being about 20 feet each in length, and extending about 150 feet west of the west end of said platform.

Question. Please state on which side of said platform said track was laid.

Answer. On the north side.

Question by same. Where the C. P. and J. Company commenced laying their track, at what point did they commence, with what gauge, and how far did they extend the track before they brought it down to 4–8½ inches?

Answer. They commenced at the point where the C. C. & C. Co.

topped laying said side track north of the platform, and brought t down to a 4–8½ gauge in about 200 feet going west.

Question by same. State whether the Piqua Co. continued to lay their track from the end of said 200 feet to Urbana.

Answer. They did on a 4–8½ gauge.

Question by same. Were the tracks of the C. C. & C. road and the Piqua road actually connected in the manner above mentioned from the time of the Piqua Co. commenced laying their rails?

Answer. They were.

Question by same. Was there any other connexion made between the tracks of said two roads from the time they commenced laying the track of the Piqua road until within the last 60 days?

Answer. There was none except a spur track on the south side of said platform, so as to bring the cars of the C. C. & C. Co. alongside of the Piqua Co., for the purpose of transferring freight, first for transferring iron, and then extended to facilitate the transfer of freight. About 60 days ago the spur track was extended west so as to connect with the track of the C. C. &. C. Co., and the tracks were at the same time thrown further apart, and the present platform built.

Question by same. Have the passenger cars of either of said companies ever run over the track of the other company?

Answer. They never have, except last 4th July, when the Piqua Co. borrowed two cars of the C. C. & C. Company.

Question by same. Is the exhibit now shown you, signed by T. Ewing, by P. B. Wilcox, and W. S. C. Otis, a correct representation of the premises?

Answer. It is.

[*For plat see original, page* 237.]

Question by same. To what points did the said spur track and said side track extend as designated on said plat?

Answer. To the points marked C and *a*.

Question by same. What direction does the Piqua road run till it reaches Champaign county?

Answer. North of west, and strikes near the northeast corner of Champaign county.

Question by same. Was the contract by which the 3d mortgage bonds of the Piqua Co. and $60,000 of its capital stock were sold to Neil & Dennison ever submitted to a meeting of the stockholders of said company for their assent and ratification?

Answer. It was never brought before them by any action of the directors, or in any other way within my knowledge.

Question by same. Is the record of the proceedings of the direct-

No. 117.

ors of the Piqua road and of the meetings of the stockholders, now here present in Mr. Wilcox's office.

Answer. Yes, sir, it is; and on examination of the same, I find no record of any ratification of said contract with Neil & Dennison.

Question by defendants. Has it been customary for passenger cars on any roads meeting at Columbus to run over each other's roads, or do passengers change cars?

Answer. The express trains on the C. C. & C. and the Little Miami, for the last 2 or 3 years, run through; the other passengers change cars.

Question by same. Ever since the change of gauge, have the freight cars of the Piqua and C. C. & C. companies been in the habit of running over each other's roads, and doing business in that way together?

Answer. Yes, sir.

Question by same. Does the Piqua road bring more freight and other business to the C. C. & C. road than the latter to the former?

Answer. I think the Piqua road brings considerably more.

Question by same. Ever since the change of gauge has the Piqua road been continually bringing more and more business to the C. C. and C. road?

Answer. I think it is doubtful, but rather think it has. The roads since finished now divide the business.

Re-examined by Plaintiff.

At the time said endorsement was made, did not the Springfield and Delaware road, which connects with the C. C. and C. at Delaware, intersect the Piqua road 28 miles west of Columbus?

Answer. It did; I think it was completed at the time.

Question by same. Did the Mad River and Lake Erie road intersect the Piqua road at Urbana?

Answer. It did; the Mad River road had been made several years before.

Question by same. How long was William Neil at the east in years 1854 and 1855?

Answer. He was absent about a year, from the spring of 1854; I understood he was selling endorsed bonds, but of my own knowledge know nothing about it.

(What the witness understood was objected to.)

Re-examined by Defendants.

The business on the C. C. and C. and Piqua roads is done, and has been, by through bills from the several points on the respective roads, and this, I think, has increased the business of both. This

mode of doing business is now in use by all well conducted roads, where it is practicable.

And further deponent saith not.

R. WALKUP.

It is stipulated that the within deposition may be used in evidence, saving exceptions to incompetency and irrelevancy.

July 10, 1857.

T. EWING,
By P. B. WILCOX,
W. S. C. OTIS,
For Compl't.

"COLUMBUS, *Jan'y* 17, 1854.

"Board met pursuant to the call of the pres't.

"Present, M. G. Mitchell, pres't, and William Dennison, jr., E. Martin, S. G. Brecount, T. M. Gwynne, J. R. Hilliard, D. Alexander and D. D. Hunter; D. Alexander, sec'y P. T."

The following resolution was then read and unanimously adopted, viz:

Committee on ways, means, and connexions.

Resolved, That the following named persons, to wit, M. G. Mitchell, pres't, S. G. Brecount, and D. Alexander be, and they are hereby, appointed a committee of ways and means and connexions, with authority to negotiate for such an amount of money or available securities as may be required, in their judgment, to complete the "C. P. and I. R. R." and discharge all its liabilities, other than those created by the bonds of said company. They are also authorized, in making such negotiations and in part consideration of the means obtained, or to be obtained for the purpose above named, to obligate and bind the "C. P. and I. R. R. Co." to preserve its present gauge of 4 ft. 8½ in., to maintain and defend the suit on the contract made by said company with the "Indianapolis and Bellefontaine R. R. Co.," for business connexions and uniform gauge, and to make such contract with regard to gauge of road and business connexions with the "Steubenville and Indiana R. R. Co." as they may deem proper and expedient. The committee are hereby also authorized, if it shall appear to them best and most conducive to the interests of this company, to contract on behalf of the company that the gauge of the C. P. and I. R. R. shall be changed from 4 ft. 8½ in. to 4 ft. 10 in.; also to change the contract heretofore made with the "I. and B. R. R. Co.," with the consent of said company, as to permit them to change the gauge of their road at pleasure, and to relieve them from the obligation to run cars through between Indianapolis and Columbus, in the event of a uniformity in the gauge of said roads between said points.

Powers.

Same subject.

Preparation of $600,000 bonds ordered.

The committee are further authorized, in the accomplishment of the object of their appointment, to wit, procuring means to complete the road and discharge its liabilities, to have bonds prepared in the usual form, to an amount not exceeding the sum of $600,000, payable at such time and place and bearing such rate of interest as they may think best; the same to be secured by a third mortgage upon the C. P. and I. R. R.; its franchises and appurtenances to be sold or otherwise disposed of, at their discretion, for the purpose above named. Any two of said committee shall constitute a quorum for the transaction of business, under this resolution, and should sickness or other obstacle prevent either S. G. Brecount or D. Alexander from fulfilling the duties of their appointment, T. M. Gwyne is hereby appointed to fill the vacancy and authorized to perform the duties of a member of said committee.

Who may act.

The following preamble and resolution were then read and adopted, viz:

Committee on conference with I. and B. R. R. Co., appointed.

Whereas, it having been represented to this board that the "I. and B. R. R. Co." are desirous to make a proposition to this company relative to a modification of the contract between the companies for a business connection at Union:

Therefore resolved, That R. Walkup, J. R. Hilliard, and S. Medary be, and they are hereby "appointed a committee to meet and confer with any committee of said company, or other party interested on this subject, and receive such propositions as they may be disposed to submit."

OFFICE OF THE C. P. AND I. R. R. Co.,
Piqua, Feb'y 14th, 1854.

Annual meeting.

Pursuant to notice, the annual meeting of the company was held at Piqua, this day, for the purpose of electing a board of directors for the ensuing year. George B. Frye, Jonas Ward and A. G. Conover being duly sworn and sitting as judges of said election, and James B. Alexander and J. M. Ewing acting as clerks.

The stockholders having proceeded to cast their ballots, the following was ascertained to be the result. The whole number of votes cast was 6,778. Of this number—

M. G. Mitchell rec'd 6778; R. Walkup, 6778; J. R. Hilliard, 6778; William Dennison, jr., 6778; Robert E. Neil, 6778; S. G. Brecount, 6778; T. M. Gwynne, 6778; D. Alexander, 6778; E. Martin, 6778; S. Medary, 6778; D. D. Hunter, 6778.

Directors elected.

Said gentlemen were thereupon declared duly elected directors for the ensuing year, having rec'd a majority of all the votes cast. The poll-books were examined,

found to be correct, and were duly attested. The meeting then adjourned.

(Signed) JONAS WARD,
A. G. CONOVER,
GEO. B. FRYE,
Judges.

J. B. ALEXANDER,
J. M. EWING,
Cl'ks.

COLUMBUS, *March 2d,* 1854.

Organization of board elect.

The gentlemen who were elected directors of the C. P. and I. R. R. Co., at a meeting of the stockholders, held at Piqua, Ohio, on the 14th day of February, 1854, having been duly notified by the president to meet at Columbus, Ohio, on the 2d day of March, 1854, the following persons appeared and were duly qualified by Wheeler, esq., notary public, to wit: M. G. Mitchell, S. G. Brecount, R. Walkup, T. M. Gwynne, R. E. Neil, J. R. Hilliard, E. Martin and D. Alexander. On motion, R. Walkup was appointed chairman, and D. Alexander sec'y. On motion, the directors proceeded to the election of officers by ballot, and on counting the ballots, the following persons were declared to be duly elected, to wit: M. G. Mitchell, president; R. Walkup, vice president; J. M. Ewing, sec'y, and Wm. Scott, treasurer.

Election of officers.

Meeting adjourned until to-morrow morning, at 9 o'clock.

R. WALKUP, *Ch'n.*

D. ALEXANDER, *Sec'y P. T.*

COLUMBUS, *March 3d,* 1854.

Board met; present same members as yesterday.

Request of Dennison to be excused as Director. Accepted.

The president presented the request of Wm. Dennison, jr., to be excused from accepting the office of director of the "Columbus, Piqua and Indiana Railroad Company."

Ordered that the request be acceded to, and the office of director to which W. Dennison, jr., was elected on the 14th day of February, 1854, be declared vacant.

Report of Committee to negotiate for loans.

The report of the committee appointed on the 17th day of January, 1854, to negotiate for funds for the completion of the C. P. and I. R. R. was presented, which was, on motion, accepted. The report is as follows:

M. G. Mitchell, S. G. Brecount, and D. Alexander, committee on ways and means and connexions, at a meeting of the board held on the 17th day of January, 1854, beg leave to report:

That in pursuance of the object of their appointment, they proceeded to Philadelphia, the two last named persons by way of Zanesville, Wheeling, and Baltimore.

The gentlemen connected with the "Central Ohio R. Road" and the "Baltimore and Ohio R. Road," and others on their lines of road, manifested a strong interest in the completion and connexion of the "C. P. and I. R. R.;" but after carefully examining the probabilities of obtaining in that direction the funds necessary to complete the "C. P. and I. R. R." and discharge its liabilities, the committee were of opinion that the desired aid could not be obtained in season to provide for the instant and pressing wants of the company. At Philadelphia the committee conferred with the president and directors of the "Pennsylvania Railroad Company," and from the large interest which that company was supposed to have in extending their connexions westward thro' the States of Ohio, Indiana, and Illinois, confidently expected efficient aid and comfort from that quarter. They were disappointed. No aid in any shape was either given or promised, and but little comfort secured, unless the friendly advice of the president, John E. Thompson, to "go and sell yourselves to the Lake Shore interest for the most you can get," may be construed in that way. The committee also conferred with the gentlemen, residents of Philadelphia, who had purchased a portion of the 2d mortgage bonds of the "C. P. and I. R. R. Co." These gentlemen had several meetings, the object of which will more fully appear by reference to a printed pamphlet herewith submitted. Their final action is embodied in a written proposition herewith submitted and made part of this report. (It is proper, however, to remark, that on the day of the last meeting of bond-holders, at which said proposition was made, to wit, the 20th February, 1854, a violent snow-storm occurred, and only three bond-holders, Messrs. Jones, Morton, and Thomas, were present.) The board of directors of the "Steubenville and Indiana R. R. Company" have agreed (the consent of the stock-holders of said company being obtained) to endorse the 3d mortgage bonds of the "C. P. and I. R. R. Co." to the amount of $300,000, and your committee believed if the additional sum of $150,000 had been provided for the sale of an additional amount of 3d mortgage bonds, as set forth in the printed pamphlet before mentioned, the amount would have been sufficient to enable the company to complete their road, and the committee assented to that proposition. The measure was not consummated on the part of the bond-holders. The proposition made, and hereto made and hereto appended, was not accepted by this committee, nor do they believe that its provisions could have been enforced upon the parties making it. The committee having totally failed in the object of their visit to Philadelphia, returned to Columbus, Ohio, and on the 25th day of February, 1854, entered into a contract with Messrs. William Neil and Wm. Dennison, jr., providing for the

Same subject.

Same subject.

Same subject.

Contract announced with Neil and Dennison.

purchase by said Wm. Neil and Wm. Dennison, jr., of $600,000 of 3d mortgage bonds of the C. P. and I. R. R. Company for the sum of $305,000, a guarantee of subscription to the capital stock of the "C. P. and I. R. R. Co." to the amount of $60,000, the manner and time of payments for same, and providing also in reference to other matters of interest to the company, all of which will more fully appear by reference to said contract herewith submitted.

(Signed) M. G. MITCHELL,
D. ALEXANDER,
S. G. BRECOUNT.

Orders relative to the foregoing.

On motion, the following order was adopted, to wit:

Whereas David Alexander and Solomon D. Brecount, committee and authorized agents of this company, duly appointed by resolution of the board of directors of this company, passed and entered upon the journal of the proceedings of their meeting, held on the 17th January, 1854, did, in pursuance of the powers conferred on them, by contract in writing dated Feb'y 25, '54, agree to sell, and did sell to Wm. Neil and Wm. Dennison, jr., for a valuable consideration therein named, six hundred of the third mortgage bonds of this company, with proper interest warrants attached, to be delivered to said Neil and Dennison, or their authorized agent, on or before the first day of April next, each of said bonds to be for $1,000, in all six hundred thousand dollars, payable in not less than ten nor more than twenty years after date thereof, as said Neil and Dennison may direct, to bear interest at the rate of seven per centum per annum, payable semi-annually on the first days of April and October of each and every year, interest and principal of the bonds to be made payable at the Ohio Life Insurance and Trust Company Bank, in the city of New York, and the payment thereof to be secured by a deed of trust or mortgage to be executed by this company to Elias Fassett, of the city of New York, the covenants and stipulations of which shall be such as are contained in the two deeds of trust or mortgages heretofore executed by this company to secure the payment of the principal and interest of six hundred first, and four hundred second mortgage bonds made by it, with the understanding expressed that the deed of trust or mortgage to be executed as aforesaid to said Elias Fassett shall embrace all and singular the property, rights, and privileges and franchises of this company, to the same extent as are embraced by each of the two deeds of trust or mortgages heretofore executed as aforesaid, and the pledge of the good faith of this company to

Sale of bonds.

Interest.

Obligation.

said Neil and Dennison, and to each and every person who shall become the holder, or be in any way interested in any of said bonds so sold to said Neil and Dennison, that it will not at any time prior to the maturity and payment of the principal and interest of said bonds, according to the tenor thereof, issue or permit to be issued any additional 3d mortgage bonds, and that said bonds shall contain a clause or stipulation authorizing the holder thereof to convert the same at any time before maturity into the stock of said company at its par value:

No additional 3d mortgage bonds to be issued.

And whereas said committee, by the tenor of said contract with said Neil and Dennison, did, among other things, expressly agree for said company to confer, and did confer on them, the full and exclusive power and privilege of adjusting all existing controversies and differences between this company and the pres't and directors of the Indianapolis and Bellefontaine R. R. Company, of negotiating and concluding with said I. and B. R. R. Co. all matters in any way relating to permanently fixing the gauge of its railroad, and did agree that this company would fully and promptly ratify and confirm any and all agreements which the said Neil and Dennison may make with said "I. and B. R. R. Co." in relation thereto, as well as to promptly ratify any and all contracts and agreements said Neil and Dennison, or either of them, shall make with that company, that may provide for or contemplate the modifying or rescinding any and all contracts now subsisting between the two companies, provided they shall obtain and deliver, or cause to be delivered to the pres't of this company, the written consent of the directors of said I. and B. R. R. Co. to enter into a permanent contract with this company when requested by it, for a running or business arrangement between the two companies, which shall secure the passengers and freight that may pass to or from this company's railroad over the road, or any part thereof, of said "I. and B. R. R." from any and all discriminations as to fare or tariff in favor of any other railroad, and particularly of the Bellefontaine and Indiana railroad, and shall provide for the through transport of freight over the roads of the two companies, this and the Indianapolis and Bellefontaine, upon reasonable terms (and reciprocal,) without being required to be transhipped at Union, and shall also provide for through ticketing of passengers over said roads upon equitable terms:

As to settlement of gauge difficulties with I. and B. R. R. Co.

Proviso.

Same subject.

And whereas said committee, by the terms of said contract with said Neil and Dennison, did expressly stipulate, on behalf of this company, that it would lay, or cause to be laid, and permanently maintain the track of its railroad from Urbana to Union of such width or gauge as they, said Neil and Dennison, shall within

ninety days from the date of said contract, verbally or in writing, require; and in case they require said track to be laid of the width of 4 ft. 10 in., this company will, within 90 days after the road between Urbana and Union shall be in operative condition, commence and vigorously prosecute to completion the relaying of its track from Urbana to Columbus of a like width or gauge, and that this company, whenever required by the president of the Central Ohio Railroad Company, will enter into a running or business arrangement with that company, the terms of which shall correspond with those contained in the contract for like purposes between said Central Ohio and the Columbus and Xenia R. R. Company: Therefore,

Same subject.

Resolved, That the Columbus, Piqua, and Indiana R. R. Company does hereby approve and ratify said contract entered into and concluded as aforesaid, between David Alexander and Solomon G. Brecount, committee and authorized agents of this company, and Wm. Neil and Wm. Dennison, jr.

Ratification.

Ordered, That two copies of the foregoing preamble and resolution be prepared and certified to by the sec'y, and delivered to said Neil and Dennison. Also—

Ordered, That said contract be copied in extenso upon the journal of the proceedings of this board.

Contract.

This agreement, concluded this 25th day of February, A. D., 1854, between the Columbus, Piqua, and Indiana Railroad Company, by its authorized agents and committee, David Alexander and Solomon G. Brecount, party of the one part, and Wm. Neil and Wm. Dennison, jr., parties of the other part, witnesseth:

The contract.

That the said "C. P. and I. R. R. Co." agrees to sell, and does hereby sell to the said Wm. Neil and Wm. Dennison, jr., six hundred of its third mortgage bonds, with proper interest warrants or coupons attached, each of said bonds for $1,000, in all $600,000, payable in not less than ten nor more than twenty years after the date thereof, as said Neil and Dennison may direct, to bear interest at the rate of seven per centum per annum, payable semi-annually, on the first days of July and January of each and every year, said interest and principal of said bonds to be made payable at the Ohio Life Insurance and Trust Company Bank in the city of New York, and the payment thereof to be secured by a decree of trust or mortgage to be executed by said railroad company to Elias Fassett, of the city of New York, the covenants and stipulations of which shall be such as are contained in the two deeds of trust or mortgages heretofore executed by said Co. to secure the payment of the principal and inte-

Same subject.

rest of six hundred first and four hundred second mortgage bonds made by it; it being understood that said bonds hereby sold to said Neil and Dennison shall contain a clause or stipulation authorizing the holder thereof to convert at any time before maturity into the stock of said company, at its par value. Said bonds shall be delivered to said Neil and Dennison, or their authorized agent, on or before the first day of April next.

Same subject.

Said Columbus, Piqua, and Indiana Railroad Company hereby agrees and pledges its good faith to said Neil and Dennison, and to each and every person who shall become the holder, or be in any way interested in any of the 600 bonds hereby sold to said Neil and Dennison, that it will not at any time prior to the maturity and payment of the principal and interest of said bonds, according to the tenor thereof, issue, or permit to be issued, any additional third mortgage bonds.

Pledge to issue no new or additional 3d mortg'e bonds.

Said railroad company also agrees to confer, and does hereby confer on said Neil and Dennison the full and exclusive power and privilege of adjusting all existing controversies and difficulties between it and the Indianapolis and Bellefontaine R. R. Company, of negotiating and concluding with said I. and B. R. R. Co. all matters in any way relating to, or permanently fixing the gauge of its said road, and does hereby agree to fully and promptly ratify and confirm any and all the agreements which the said Neil and Dennison may make with said I. and B. R. R. Co. in relation thereto.

And said C., P. and I. R. R. Co. further agrees to ratify and confirm any and all contracts and agreements that the said Neil and Dennison, or either of them, may make with said I. and B. R. R. Co. that may provide for or contemplate the modifying or rescinding any and all contracts now subsisting between the two companies: Provided, That said Neil and Dennison, or either of them, shall obtain and deliver, or cause to be delivered, to the pres't of the said C., P. and I. R. R. Co. the written consent of the directors of said I. and B. R. R. Co. to enter into a permanent contract with said C., P. and I. R. R. Co. when requested by it, for a running or business arrangement between the two companies, which shall secure the passengers and freight that may pass to or from the C., P. and I. R. R. over the road, or any part thereof, of the said I. and B. R. R. Co. from any and all discriminations of fare or tariff in favor of any other railroad, and particularly of the Bellefontaine and Indiana railroad, shall provide for the through transportation of freight over the road of the two companies, the C., P. and I. and the I. and B., upon reasonable and reciprocal terms, without being required

Same subject.

to be transhipped at Union, and shall also provide for the through ticketing of passengers over their said road upon equitable terms.

As to gauge.

Said C. P. and I. R. R. Co. agrees to lay, or cause to be laid, and to permanently maintain the track of its railroad from Urbana to Union, of such width or gauge as said Neil and Dennison shall, within 90 days from the date of this instrument, verbally or in writing require. And in case they shall require said track to be laid of the width of 4 ft. 10 in., said company, agrees within 90 days after the road between Urbana and Union shall be in operative condition, to commence and vigorously prosecute to completion the relaying of its track from Urbana to Columbus of a like width or gauge;

As to contract with Central Ohio R. R. Co.

and said company also agrees that whenever requested by the president of the Central Ohio Railroad Company, it will enter into a running or business arrangement with the company, at the terms *of* which shall correspond with those contained in the contract for like purposes between said Central Ohio and the Columbus and Xenia Railroad Company.

Debts assumed by Neil & Dennison.

In consideration of said 600 bonds, and the agreements, stipulations and pledges of the said C. P. and I. R. R. Co., herein contained, the said Neil & Dennison hereby agree to assume the following named debts due and becoming due of said company, to wit:

Hartford Bank, Connecticut	$45,000	
Orange " N. Jersey	20,000	
Exchange " Columbus	10,000	
Champaign Co. Bank, Urbana	3,000	
C. C. and C. R. R. Comp'y	7,271	
Wm. Neil	34,118	70
Ridgway & Kimball	32,085	74
Piqua Br. Bank	10,000	

Sundry payments to be made.

Interest due July 1st, next, on 1st, 2d, and 3d mortgage bonds of said C. P. and I. R. R. Co., thirty thousand dollars ($30,000), with all interest and exchange thereon, and to pay said company the following sums of money, at the times specified—that is to say:

$15,000 April 15 next; 15,000 August 15 next; 5,606 72 Mar. 15 next; 15,000 Sept. 15 next; 15,000 May 15 next; 7,917 84 Oct. 15 next; 15,000 June 15 next; 10,000 Nov. 15 next; 15,000 July 15 next.

Stock subscribed.

It being understood, the entire consideration to be paid by said Neil & Dennison, jr., for said 600 bonds is $305,000; and whatever sum above that may be paid by them in settling the foregoing debts of the company, and in making the above named cash payments, shall be credited them on the payments for stock hereinafter specified. Said Neil &

Dennison further agree to guarantee the subscription of stock in said company to the amount of $60,000, said stock being rated at its par value, and to be responsible for the payment thereof as follows: $10,000 in hand, the receipt whereof is hereby acknowledged; the residue in monthly instalments of $5,000 each, commencing the first day of May next; certificates of stock to be issued to the proper parties as the same shall be paid for as aforesaid.

As to computation of interest.

It is understood that interest shall be adjusted fairly and equitably between the parties hereto, and that the current rate of exchange at Columbus, in the State of Ohio, shall be allowed the said Neil & Dennison in all payments made by them of the aforesaid debts of said company, payable out of said State of Ohio.

As to Co. being restrained from changing gauge.

It is further understood between the parties that in case said C., P. and I. R. R. Co. shall be temporarily or otherwise restrained, or in any way prevented by legal process or otherwise, from changing the gauge of its own road, or consenting for said Indianapolis and Bellefontaine Company to change the gauge of its road, in case either change shall be provided for or required by said Neil & Dennison pursuant to the terms of this instrument, said Neil & Dennison may, if they choose, return to said company any and all of said 600 bonds which they may then hold, or have any interest in, and for such returned bonds said company shall pay them, within a reasonable time, fifty per cent. on each and every dollar thereof, with all the then accrued unpaid interest thereon, and any and all endorsements on said returned bonds said Neil & Dennison, or either of them, may erase or cancel.

Same subject.

It is also understood that previous to the delivery of said 600 bonds as aforesaid, to said Neil & Dennison, the pres't of said C., P. and I. R. R. Co., shall be furnished with reasonable evidence of the ability of the said Neil & Dennison to promptly fulfil each and all of the agreements and stipulations on their part herein contained.

Mode of adjusting differences.

In case of any disagreement of the parties as to the true intent and meaning of any part of this agreement, the same shall be referred to two disinterested parties, said company to elect one and Neil & Dennison the other, who shall decide the matter in controversy; and if they cannot agree, they shall elect an umpire, whose decision shall be final.

Extent of deed of trust or mortgage.

It is understood that the deed of trust or mortgage to be executed as aforesaid by said C., P. & I. R. R. Co., to secure the payment of the principal and interest of the 600 bonds sold to said Neil & Dennison, as aforesaid, shall embrace all and singular the property, rights, privileges, and franchises of said Co. to the same extent as are embraced by each of the two deeds of trust or mortgages heretofore executed by said company, to secure the principal and interest (or

the payment thereof) of the 600 first and 400 second mortgage bonds heretofore made by said company as aforesaid. It is understood that the corporate name of the Indianapolis and Bellefontaine Railroad Company hereinbefore mentioned is "The President and Directors of the Indianapolis and Bellefontaine Railroad Company."

Style of Comp'y.

(Signed) *The Columbus, Piqua, and Indiana Railroad Company.*
By DAVID ALEXANDER,
S. G. BRECOUNT,
Authorized Agents and Committee.

(Signed) WM. NEIL,
WM. DENNISON, Jr.

Witness: M. L. NEVILLE.

Trustee.

It is mutually agreed between the parties to the foregoing contract that Elias Fassett, of the city of New York, shall be and is hereby substituted for George S. Coe, as the trustee to be named in the trust deed or mortgage to be executed by said C., P. & I. R. R. Co., to secure the payment of the principal and interest of the 600 bonds sold by said company to said Neil & Dennison, as specified in the foregoing instrument, February 25, 1854.

(Signed) *The Columbus, Piqua, and Indiana Railroad Company.*
By DAVID ALEXANDER,
S. G. BRECOUNT,
Authorized Agents and Committee.

(Signed) WM. NEIL,
WM. DENNISON, Jr.

Witness: M. L. NEVILLE.

Times of payment of interest on 3d mortgage bonds.

It is mutually agreed between the parties to the foregoing contract that the semi-annual payments of interest on the 600 bonds sold to said Neil & Dennison, as therein specified, shall be made at the place specified therein, on the 1st days of April and October, of each and every year, instead of the 1st days of July and January, as mentioned in said contract. All of said bonds are to be dated the 1st day of April, 1854.

(Signed) THE C., P. & I. R. R. CO.
By D. ALEXANDER,
S. G. BRECOUNT,
Authorized Agents and Committee.

(Signed) WM. NEIL,
WM. DENNISON, Jr.

Witness: M. L. NEVILLE.

Adoption of contract.

On motion, the foregoing order and the contract just recited were adopted by the following vote:

Affirmative.—S. G. Brecount, T. M. Gwynne, D. D. Hunter, R. Walkup, J. R. Hilliard, E. Martin, D. Alexander.

Negative.—M. G. Mitchell.

I, S. S. Eastwood, secretary of the Columbus, Piqua and Indiana Railroad Company, hereby certify that the foregoing proceedings are true copies from the record-book of the directors of said company, and embrace all and singular the proceedings relating to said matters.

And further I certify, that from the record book aforesaid, it appears that there was a meeting of the board of directors of said company between the 17th day of January and the 2d day of March, 1854.

In witness whereof, I have hereto subscribed my name, this 11th day of July, 1856, the seal of said company not being in said office.

S. S. EASTWOOD, *Sec'y.*

It is stipulated that the enclosed are true copies from the record of the company, and further authentication is waived, defendants reserving objections for irrelevancy and incompetency.

T. EWING,
By P. B. WILCOX.

July 10, 1857.

And afterwards, to wit, on the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and fifty-eight, being at the said February term of said court first herein mentioned, the court made and entered upon the journal of its proceedings at said term a final decree in this cause, which said final decree is in the words and figures following, to wit:

CHRISTIAN A. ZABRISKIE
vs.
THE CLEVELAND, COLUMBUS AND CINCINNATI RAILROAD COMPANY et al.
} No. 201.—In Chancery.

This cause having been argued and submitted, and held under advisement, and the court being now fully advised in the premises, do order, adjudge, and decree, that the injunction heretofore allowed in this case be dissolved, and the said bill be dismissed; and that the said complainant do pay the costs of this suit.

And on motion of the complainant, by his counsel, Mr. Otis, it is ordered, that an appeal be allowed to said complainant, on his giving bond with sufficient security, to be approved by the clerk, in the sum of two thousand dollars, conditioned for the payment of all costs which may be adjudged against him; and it is certified

that the amount in controversy in this case exceeds the sum of two thousand ($2,000) dollars.

And afterwards, to wit, on the twenty-fifth day of March, in the year of our Lord one thousand eight hundred and fifty-eight, an appeal bond in this cause was filed in said court by said appellant, and the same is in the words and figures following, to wit:

Circuit Court of the United States, seventh circuit and northern district of Ohio.

CHRISTIAN A. ZABRISKIE, Complainant and Appellant, vs. THE CLEVELAND, COLUMBUS AND CINCINNATI R. R. Co., John A. Butler, Thomas Belknap, and W. H. D. Callender, Def'ts and Appellees.	In Chancery.—Appeal.

Know all men by these presents that I, William S. C. Otis, of the city of Cleveland, Ohio, am held and firmly bound unto the above-named the Cleveland, Columbus and Cincinnati Railroad Company, John A. Butler, Thomas Belknap, and W. H. D. Callender, in the sum of two thousand dollars, to be paid to the said appellees; for the payment of which well and truly to be made I bind myself, my heirs, executors, and administrators firmly by these presents. Sealed with my seal and dated the 25th day of March, in the year of our Lord one thousand eight hundred and fifty-eight.

Whereas the above named appellant has prosecuted an appeal to the Supreme Court of the United States, at the city of Washington, in the District of Columbia, to reverse the decree rendered in the above suit by the circuit court of the United States for the northern district of Ohio: Now, therefore, the condition of this obligation is such that if Christian A. Zabriskie, the above named appellant, shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his appeal good, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

WILLIAM S. C. OTIS. [SEAL.]

Taken, acknowledged, and approved this 25th day of March, 1858.

F. W. GREEN, *Clerk.*

UNITED STATES OF AMERICA,
Northern District of Ohio, ss.

I, Frederick W. Green, clerk of the circuit court of the United States for the northern district of Ohio, in the seventh circuit, do

hereby certify that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in my office in the cause within named.

In testimony whereof, I have hereunto subscribed my name officially and affixed the seal of said circuit court, at the city of Cleveland, in said northern district of Ohio, [SEAL.] this twenty-first day of September, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States of America the eighty-third.

F. W. GREEN, *Clerk.*

Filed 14th October, 1858.